

ELECTION LAW REVISIONS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Glenn A. Donnelson

This act modifies the Election Code. This act creates an optional process allowing the selection of citizens to audit the election results, creates the process that the citizens and election officer must follow to complete the audit, authorizes a recount if the audit results and election results disagree, and requires the election officer to train certain citizens who will supervise the hand audit of the election at least 14 days before the election. This act expands the number of poll watchers, increases their duties and responsibilities, and authorizes them to make a written, picture, video, or audio tape recorded memorandum of the process. This act increases the responsibilities of election officers and election judges and increases the amount of equipment and space needed for counting if an optional hand audit is requested. This act requires additional information to be included on election forms. This act requires voters to clean their ballots. This act requires each election officer to post election returns and canvass reports on the Internet. This act modifies canvassing requirements and expands the opportunities for a recount. This act establishes stricter requirements for automated or electronic voting systems and equipment.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:**20A-1-102**, as last amended by Chapter 241, Laws of Utah 2001**20A-3-104**, as enacted by Chapter 1, Laws of Utah 1993**20A-3-104.5**, as enacted by Chapter 328, Laws of Utah 2000**20A-3-105**, as last amended by Chapter 73, Laws of Utah 2001**20A-3-201**, as last amended by Chapter 22, Laws of Utah 1999**20A-3-307**, as enacted by Chapter 1, Laws of Utah 1993**20A-3-308**, as last amended by Chapter 340, Laws of Utah 1995

28 **20A-3-309**, as enacted by Chapter 1, Laws of Utah 1993
29 **20A-4-101**, as last amended by Chapter 228, Laws of Utah 1993
30 **20A-4-102**, as last amended by Chapter 3, Laws of Utah 2000
31 **20A-4-103**, as last amended by Chapter 2, Laws of Utah 1994
32 **20A-4-104**, as last amended by Chapter 340, Laws of Utah 1995
33 **20A-4-105**, as last amended by Chapter 56, Laws of Utah 1999
34 **20A-4-106**, as last amended by Chapter 75, Laws of Utah 2000
35 **20A-4-201**, as last amended by Chapter 3, Laws of Utah 1996, Second Special Session
36 **20A-4-202**, as last amended by Chapter 228, Laws of Utah 1993
37 **20A-4-301**, as last amended by Chapter 22, Laws of Utah 1999
38 **20A-4-303**, as last amended by Chapter 21, Laws of Utah 1994
39 **20A-4-304**, as last amended by Chapter 22, Laws of Utah 1999
40 **20A-4-306**, as last amended by Chapter 22, Laws of Utah 1999
41 **20A-4-401**, as last amended by Chapter 20, Laws of Utah 2001
42 **20A-5-302**, as last amended by Chapter 21, Laws of Utah 1994
43 **20A-5-303**, as last amended by Chapter 45, Laws of Utah 1999
44 **20A-5-401**, as last amended by Chapter 22, Laws of Utah 1999
45 **20A-5-403**, as last amended by Chapter 340, Laws of Utah 1995
46 **20A-5-404**, as last amended by Chapter 9, Laws of Utah 2001
47 **20A-5-605**, as last amended by Chapter 282, Laws of Utah 1998
48 **20A-6-102**, as enacted by Chapter 2, Laws of Utah 1994
49 **20A-6-301**, as last amended by Chapter 57, Laws of Utah 2001
50 **20A-6-401**, as enacted by Chapter 2, Laws of Utah 1994
51 **20A-6-401.1**, as enacted by Chapter 328, Laws of Utah 2000
52 **20A-6-402**, as last amended by Chapter 57, Laws of Utah 2001

53 ENACTS:

54 **20A-4-104.1**, Utah Code Annotated 1953
55 **20A-5-302.1**, Utah Code Annotated 1953
56 **20A-5-403.1**, Utah Code Annotated 1953
57 **20A-5-602.2**, Utah Code Annotated 1953

58 *Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **20A-1-102** is amended to read:

20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot cards and tabulates the results.

(3) "Ballot" means the cardboard, paper, or other material upon which a voter records his votes and includes ballot cards, paper ballots, and secrecy envelopes.

(4) "Ballot card" means a ballot that can be counted using automatic tabulating equipment.

(5) "Ballot label" means the cards, papers, booklet, pages, or other materials that contain the names of offices and candidates and statements of ballot propositions to be voted on and which are used in conjunction with ballot cards.

(6) "Ballot proposition" means opinion questions specifically authorized by the Legislature, constitutional amendments, initiatives, referenda, and judicial retention questions that are submitted to the voters for their approval or rejection.

(7) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(8) "Bond election" means an election held for the sole purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(9) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(10) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(11) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(12) "Canvassing judge" means an election judge designated to assist in counting ballots at the canvass.

(13) "Canvassing poll watcher" means a person selected as provided in this title to inspect the condition of the election returns, the counting of absentee ballots, the final tallying of the vote totals, and any other activities at the canvass or recounts.

90 ~~[(13)]~~ (14) "Convention" means the political party convention at which party officers and
91 delegates are selected.

92 ~~[(14)]~~ (15) "Counting center" means one or more locations selected by the election officer
93 in charge of the election for the automatic counting of ballots.

94 ~~[(15)]~~ (16) "Counting judge" means a judge designated to count the ballots during election
95 day.

96 ~~[(16)]~~ (17) "Counting poll watcher" means a person selected as provided in Section
97 20A-3-201 to witness the counting of ballots.

98 ~~[(17)]~~ (18) "Counting room" means a suitable and convenient private place or room,
99 immediately adjoining the place where the election is being held, for use by the counting judges
100 to count ballots during election day.

101 ~~[(18)]~~ (19) "County executive" has the meaning as provided in Subsection 68-3-12(2).

102 ~~[(19)]~~ (20) "County legislative body" has the meaning as provided in Subsection
103 68-3-12(2).

104 ~~[(20)]~~ (21) "County officers" means those county officers that are required by law to be
105 elected.

106 ~~[(21)]~~ (22) "Election" means a regular general election, a municipal general election, a
107 statewide special election, a local special election, a regular primary election, a municipal primary
108 election, and a special district election.

109 ~~[(22)]~~ (23) "Election cycle" means the period beginning on the first day persons are
110 eligible to file declarations of candidacy and ending when the canvass is completed.

111 ~~[(23)]~~ (24) "Election judge" means each canvassing judge, counting judge, and receiving
112 judge.

113 ~~[(24)]~~ (25) "Election officer" means:

114 (a) the lieutenant governor, for all statewide ballots;

115 (b) the county clerk or clerks for all county ballots and for certain special district and
116 school district ballots as provided in Section 20A-5-400.5;

117 (c) the municipal clerk for all municipal ballots and for certain special district and school
118 district ballots as provided in Section 20A-5-400.5; and

119 (d) the special district clerk or chief executive officer for all special district ballots that are
120 not part of a statewide, county, or municipal ballot.

121 ~~[(25)]~~ (26) "Election official" means any election officer, election judge, or satellite
122 registrar.

123 ~~[(26)]~~ (27) "Election returns" includes the pollbook, all affidavits of registration, the
124 military and overseas absentee voter registration and voting certificates, one of the tally sheets, any
125 unprocessed absentee ballots, all counted and uncounted ballots, all excess ballots, all unused
126 ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

127 ~~[(27)]~~ (28) "Electronic voting system" means a system in which a voting device is used
128 in conjunction with ballots so that votes recorded by the voter are counted and tabulated by
129 automatic tabulating equipment.

130 ~~[(28)]~~ (29) "Inactive voter" means a registered voter who has been sent the notice required
131 by Section 20A-2-306 and who has failed to respond to that notice.

132 ~~[(29)]~~ (30) "Inspecting poll watcher" means a person selected as provided in this title to
133 witness:

134 (a) the arrival of the ballots and election returns at the counting or collection centers from
135 the voting precincts; and

136 (b) the receipt and safe deposit of voted and counted ballots in the office of the clerk or
137 recorder to whom ballots and election returns are delivered after elections.

138 ~~[(30)]~~ (31) "Judicial office" means the office filled by any judicial officer.

139 ~~[(31)]~~ (32) "Judicial officer" means any justice or judge of a court of record or any county
140 court judge.

141 ~~[(32)]~~ (33) "Local election" means a regular municipal election, a local special election,
142 a special district election, and a bond election.

143 ~~[(33)]~~ (34) "Local political subdivision" means a county, a municipality, a special district,
144 or a local school district.

145 ~~[(34)]~~ (35) "Local special election" means a special election called by the governing body
146 of a local political subdivision in which all registered voters of the local political subdivision may
147 vote.

148 ~~[(35)]~~ (36) "Municipal executive" means:

149 (a) the city commission, city council, or town council in the traditional management
150 arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

151 (b) the mayor in the council-mayor optional form of government defined in Section

152 10-3-1209; and

153 (c) the manager in the council-manager optional form of government defined in Section
154 10-3-1209.

155 ~~[(36)]~~ (37) "Municipal general election" means the election held in municipalities and
156 special districts on the first Tuesday after the first Monday in November of each odd-numbered
157 year for the purposes established in Section 20A-1-202.

158 ~~[(37)]~~ (38) "Municipal legislative body" means:

159 (a) the city commission, city council, or town council in the traditional management
160 arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

161 (b) the municipal council in the council-mayor optional form of government defined in
162 Section 10-3-1209; and

163 (c) the municipal council in the council-manager optional form of government defined in
164 Section 10-3-1209.

165 ~~[(38)]~~ (39) "Municipal officers" means those municipal officers that are required by law
166 to be elected.

167 ~~[(39)]~~ (40) "Municipal primary election" means an election held to nominate candidates
168 for municipal office.

169 ~~[(40)]~~ (41) "Official ballot" means the ballots distributed by the election officer to the
170 election judges to be given to voters to record their votes.

171 ~~[(41)]~~ (42) "Official endorsement" means:

172 (a) the information on the ballot that identifies:

173 (i) the ballot as an official ballot;

174 (ii) the date of the election; ~~and~~

175 (iii) the facsimile signature of the election officer; and

176 (iv) two election judges' initials; and

177 (b) the information on the ballot stub that identifies:

178 (i) ~~[the]~~ two election ~~[judge's]~~ judges' initials; and

179 (ii) the ballot number.

180 ~~[(42)]~~ (43) "Official register" means the book furnished election officials by the election
181 officer that contains the information required by Section 20A-5-401.

182 ~~[(43)]~~ (44) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record his vote for each office and for or against each ballot proposition.

~~[(44)]~~ (45) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party Formation and Procedures.

~~[(45)]~~ (46) "Polling place" means the building where residents of a voting precinct vote.

~~[(46)]~~ (47) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks his choice.

~~[(47)]~~ (48) "Posting list" means a list of registered voters within a voting precinct.

~~[(48)]~~ (49) "Primary convention" means the political party conventions at which nominees for the regular primary election are selected.

~~[(49)]~~ (50) "Protective counter" means a separate counter, which cannot be reset, that is built into a voting machine and records the total number of movements of the operating lever.

~~[(50)]~~ (51) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

~~[(51)]~~ (52) "Receiving judge" means the election judge that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

~~[(52)]~~ (53) "Registration days" means the days designated in Section 20A-2-203 when a voter may register to vote with a satellite registrar.

~~[(53)]~~ (54) "Registration form" means a book voter registration form and a by-mail voter registration form.

~~[(54)]~~ (55) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

~~[(55)]~~ (56) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, at which candidates of political parties and nonpolitical groups are voted for nomination.

~~[(56)]~~ (57) "Resident" means a person who resides within a specific voting precinct in

214 Utah.

215 ~~[(57)]~~ (58) "Sample ballot" means a mock ballot similar in form to the official ballot
216 printed and distributed as provided in Section 20A-5-405.

217 ~~[(58)]~~ (59) "Satellite registrar" means a person appointed under Section 20A-5-201 to
218 register voters and perform other duties.

219 ~~[(59)]~~ (60) "Scratch vote" means to mark or punch the straight party ticket and then mark
220 or punch the ballot for one or more candidates who are members of different political parties.

221 ~~[(60)]~~ (61) "Secrecy envelope" means the envelope given to a voter along with the ballot
222 into which the voter places the ballot after he has voted it in order to preserve the secrecy of the
223 voter's vote.

224 ~~[(61)]~~ (62) "Special district" means those local government entities created under the
225 authority of Title 17A.

226 ~~[(62)]~~ (63) "Special district officers" means those special district officers that are required
227 by law to be elected.

228 ~~[(63)]~~ (64) "Special election" means an election held as authorized by Section 20A-1-204.

229 ~~[(64)]~~ (65) "Spoiled ballot" means each ballot that:

230 (a) is spoiled by the voter;

231 (b) is unable to be voted because it was spoiled by the printer or the election judge; or

232 (c) lacks the official endorsement.

233 ~~[(65)]~~ (66) "Statewide special election" means a special election called by the governor
234 or the Legislature in which all registered voters in Utah may vote.

235 ~~[(66)]~~ (67) "Stub" means the detachable part of each ballot.

236 ~~[(67)]~~ (68) "Substitute ballots" means replacement ballots provided by an election officer
237 to the election judges when the official ballots are lost or stolen.

238 ~~[(68)]~~ (69) "Ticket" means each list of candidates for each political party or for each group
239 of petitioners.

240 ~~[(69)]~~ (70) "Transfer case" means the sealed box used to transport voted ballots to the
241 counting center.

242 ~~[(70)]~~ (71) "Vacancy" means the absence of a person to serve in any position created by
243 statute, whether that absence occurs because of death, disability, disqualification, resignation, or
244 other cause.

245 ~~[(71)]~~ (72) "Valid write-in candidate" means a candidate who has qualified as a write-in
246 candidate by following the procedures and requirements of this title.

247 ~~[(72)]~~ (73) "Voter" means a person who meets the requirements for voting in an election,
248 meets the requirements of election registration, is registered to vote, and is listed in the official
249 register book.

250 ~~[(73)]~~ (74) "Voting area" means the area within six feet of the voting booths, voting
251 machines, and ballot box.

252 ~~[(74)]~~ (75) "Voting booth" means the space or compartment within a polling place that is
253 provided for the preparation of ballots and includes the voting machine enclosure or curtain.

254 ~~[(75)]~~ (76) "Voting device" means:

255 (a) an apparatus in which ballot cards are used in connection with a punch device for
256 piercing the ballots by the voter;

257 (b) a device for marking the ballots with ink or another substance; or

258 (c) any other method for recording votes on ballots so that the ballot may be tabulated by
259 means of automatic tabulating equipment.

260 ~~[(76)]~~ (77) "Voting machine" means a machine designed for the sole purpose of recording
261 and tabulating votes cast by voters at an election.

262 ~~[(77)]~~ (78) "Voting poll watcher" means a person appointed as provided in this title to
263 witness the distribution of ballots and the voting process.

264 ~~[(78)]~~ (79) "Voting precinct" means the smallest voting unit established as provided by
265 law within which qualified voters vote at one polling place.

266 ~~[(79)]~~ (80) "Watcher" means a voting poll watcher, a counting poll watcher, ~~[and]~~ an
267 inspecting poll watcher, and a canvassing poll watcher.

268 ~~[(80)]~~ (81) "Western States Presidential Primary" means the election established in Title
269 20A, Chapter 9, Part 8.

270 ~~[(81)]~~ (82) "Write-in ballot" means a ballot containing any write-in votes.

271 ~~[(82)]~~ (83) "Write-in vote" means a vote cast for a person whose name is not printed on
272 the ballot according to the procedures established in this title.

273 Section 2. Section **20A-3-104** is amended to read:

274 **20A-3-104. Manner of voting.**

275 (1) (a) Any registered voter desiring to vote shall give his name, and, if requested, his

residence, to one of the election judges.

(b) If an election judge does not know the person requesting a ballot and has reason to doubt that person's identity, the judge shall request identification or have the voter identified by a known registered voter of the district.

(c) If the voter is challenged as provided in Section 20A-3-202, the judge shall provide a ballot to the voter if the voter takes an oath that the grounds of the challenge are false.

(2) (a) When the voter is properly identified, the election judge in charge of the official register shall check the official register to determine whether or not the person is registered to vote.

(b) (i) If the voter's name is not found on the official register and, if it is not unduly disruptive of the election process, the election judge shall attempt to contact the county clerk's office to request oral verification of the voter's registration.

(ii) If oral verification is received from the county clerk's office, the judge shall record the verification on the official register, perform the other administrative steps required by Subsection (3), repeat the voter's name, hand the voter a ballot, and allow the voter to enter the voting booth.

(3) If the election judge determines that the voter is registered:

(a) the election judge in charge of the official register shall:

(i) write the ballot number opposite the name of the voter in the official register; and

(ii) direct the voter to sign his name in the election column in the official register;

(b) another judge shall list the ballot number and voter's name in the pollbook;

(c) the election judge having charge of the ballots shall:

(i) endorse his initials on the stub and on the ballot and have a second judge initial the stub and ballot also;

(ii) check the name of the voter on the pollbook list with the number of the stub;

(iii) hand the voter a ballot; and

(iv) allow the voter to enter the voting booth.

(4) Whenever the election officer is required to furnish more than one kind of official ballot to the voting precinct, the election judges of that voting precinct shall give the registered voter the kind of ballot that the voter is qualified to vote.

Section 3. Section **20A-3-104.5** is amended to read:

20A-3-104.5. Voting -- Regular primary election.

(1) (a) Any registered voter desiring to vote at the regular primary election shall give his

name, the name of the registered political party whose ballot the voter wishes to vote, and, if requested, his residence, to one of the election judges.

(b) If an election judge does not know the person requesting a ballot and has reason to doubt that person's identity, the judge shall request identification or have the voter identified by a known registered voter of the district.

(c) If the voter is challenged as provided in Section 20A-3-202, the judge shall provide a ballot to the voter if the voter takes an oath that the grounds of the challenge are false.

(2) (a) (i) When the voter is properly identified, the election judge in charge of the official register shall check the official register to determine:

(A) whether or not the person is registered to vote; and

(B) whether or not the person's party affiliation designation in the official register allows the voter to vote the ballot that the voter requested.

(ii) If the official register does not affirmatively identify the voter as being affiliated with a registered political party or if the official register identifies the voter as being "unaffiliated," the voter shall be considered to be "unaffiliated."

(b) (i) If the voter's name is not found on the official register and, if it is not unduly disruptive of the election process, the election judge shall attempt to contact the county clerk's office to request oral verification of the voter's registration.

(ii) If oral verification is received from the county clerk's office, the judge shall record the verification on the official register, determine the voter's party affiliation and the ballot that the voter is qualified to vote, and perform the other administrative steps required by Subsection (3).

(c) (i) Except as provided in Subsection (2)(c)(ii), if the voter's political party affiliation listed in the official register does not allow the voter to vote the ballot that the voter requested, the election judge shall inform the voter of that fact and inform the voter of the ballot or ballots that the voter's party affiliation does allow the voter to vote.

(ii) (A) If the voter is listed in the official register as "unaffiliated," or if the official register does not affirmatively identify the voter as either "unaffiliated" or affiliated with a registered political party, and the voter, as an "unaffiliated" voter, is not authorized to vote the ballot that the voter requests, the election judge shall ask the voter if the voter wishes to vote another registered political party ballot that the voter, as "unaffiliated," is authorized to vote, or remain "unaffiliated."

(B) If the voter wishes to vote another registered political party ballot that the unaffiliated

voter is authorized to vote, the election judge shall proceed as required by Subsection (3).

(C) If the voter wishes to remain unaffiliated and does not wish to vote another ballot that unaffiliated voters are authorized to vote, the election judge shall instruct the voter that the voter may not vote.

(iii) For the primary election held June 24, 2002, only:

(A) if the voter is listed in the official register as "unaffiliated," or if the official register does not affirmatively identify the voter as either "unaffiliated" or "affiliated" with a registered political party, the election judge shall ask the voter if the voter wishes to affiliate with a registered political party, or remain "unaffiliated."

(B) If the voter wishes to affiliate with the registered political party whose ballot the voter requested, the election judge shall direct the voter to complete the change of party affiliation form and proceed as required by Subsection (3).

(C) If the voter wishes to remain unaffiliated and wishes to vote another registered political party ballot that the unaffiliated voter is authorized to vote, the election judge shall proceed as required by Subsection (3).

(D) If the voter wishes to remain unaffiliated and does not wish to vote another ballot that unaffiliated voters are authorized to vote, the election judge shall instruct the voter that the voter may not vote.

(3) If the election judge determines that the voter is registered and eligible, under Subsection (2), to vote the ballot that the voter requested:

(a) the election judge in charge of the official register shall:

(i) write the ballot number and the name of the registered political party whose ballot the voter voted opposite the name of the voter in the official register; and

(ii) direct the voter to sign his name in the election column in the official register;

(b) another judge shall list the ballot number and voter's name in the pollbook; and

(c) the election judge having charge of the ballots shall:

(i) endorse his initials on the stub and on the ballot and have a second judge initial the stub and ballot also;

(ii) check the name of the voter on the pollbook list with the number of the stub;

(iii) hand the voter the ballot for the registered political party that the voter requested and for which the voter is authorized to vote; and

(iv) allow the voter to enter the voting booth.

(4) Whenever the election officer is required to furnish more than one kind of official ballot to the voting precinct, the election judges of that voting precinct shall give the registered voter the kind of ballot that the voter is qualified to vote.

Section 4. Section **20A-3-105** is amended to read:

20A-3-105. Marking and depositing ballots.

(1) (a) If paper ballots are used, the voter, upon receipt of the ballot, shall go to a voting booth and prepare the voter's ballot by marking the appropriate position with a mark opposite the name of each candidate of the voter's choice for each office to be filled.

(b) A mark is not required opposite the name of a write-in candidate.

(c) If a ballot proposition is submitted to a vote of the people, the voter shall mark in the appropriate square with a mark opposite the answer the voter intends to make.

(d) The voter shall fold the ballot before leaving the booth so its contents are concealed and the stub can be removed.

(2) (a) (i) If ballot cards are used, the voter shall insert the ballot card into the voting device and mark the ballot card according to the instructions provided on the device.

(ii) If the voter is issued a ballot card with a long stub without a secrecy envelope, the voter shall record any write-in votes on the long stub.

(iii) If the voter is issued a ballot card with a secrecy envelope, the voter shall record any write-in votes on the secrecy envelope.

(b) After the voter has marked the ballot card, the voter shall either:

(i) place the ballot card inside the secrecy envelope, if one is provided; or

(ii) fold the long stub over the face of the ballot card to maintain the secrecy of the vote if the voter is issued a ballot card with a long stub without a secrecy envelope.

(3) (a) After preparation of the ballot, the voter shall:

(i) leave the voting booth; and

(ii) announce his name to the election judge in charge of the ballot box.

(b) The election judge in charge of the ballot box shall:

(i) clearly and audibly announce the name of the voter and the number on the stub of the voter's ballot;

(ii) if the stub number on the ballot corresponds with the number previously recorded in

the official register, and bears the initials of ~~[the]~~ two election [judge] judges, and if the ballot also bears the initials of two election judges, remove the stub from the ballot; ~~[and]~~

(iii) return the ballot to the voter~~[-]; and~~

(iv) if a punch card ballot is used, or any other type of ballot that might need cleaning, advise the voter to clean the ballot of any hanging chad or any other type of necessary cleaning.

(c) If the voter requests that the election judge assist the voter in cleaning the ballot, the election judge shall assist the voter in full view of the voter.

(d) If, during the cleaning process, the ballot is spoiled or any dimpled chads are present, the election judge shall, upon request of the voter, issue a new ballot for the voter to vote as authorized by Section 20A-3-107.

~~[(e) The]~~ (e) After completing the cleaning process, the voter shall, in full view of the election judges, cast his vote by depositing the ballot in the ballot box for his precinct.

~~[(d)]~~ (f) (i) The election judge may not accept a ballot;

(A) from which the stub has been detached[-];

(B) that is missing two election judges' endorsed initials; or

(C) that has a different number than the ballot stub number recorded in the official register by the election judge when the ballot was given to the voter.

(ii) The election judge shall treat a ballot from which the stub has been detached as a spoiled ballot and shall provide the voter with a new ballot and dispose of the spoiled ballot as provided in Section 20A-3-107.

(g) Except as provided in Section 20A-5-301 and Subsection 20A-5-303(5), the election judges may not allow voters from different precincts to combine ballots in the same ballot box.

(4) A voter voting a paper ballot in a regular primary election shall, after marking the ballot:

(a) (i) detach the part of the paper ballot containing the names of the candidates of the party he has voted from the remainder of the paper ballot;

(ii) fold that portion of the paper ballot so that its face is concealed; and

(iii) deposit it in the ballot box; and

(b) (i) fold the remainder of the paper ballot, containing the names of the candidates of the parties that the elector did not vote; and

(ii) deposit it in a separate ballot box that is marked and designated as a blank ballot box.

(5) (a) Each voter shall mark and deposit the ballot without delay and leave the voting area after voting.

(b) A voter may not:

(i) occupy a voting booth occupied by another, except as provided in Section 20A-3-108;

(ii) remain within the voting area more than ten minutes; or

(iii) occupy a voting booth for more than five minutes if all booths are in use and other voters are waiting to occupy them.

(6) If the official register shows any voter as having voted, that voter may not reenter the voting area during that election unless that voter is an election official or watcher.

(7) The election judges may not allow more than four voters more than the number of voting booths into the voting area at one time unless those excess voters are:

(a) election officials;

(b) watchers; or

(c) assisting voters with a disability.

Section 5. Section **20A-3-201** is amended to read:

20A-3-201. Watchers.

(1) (a) (i) For each regular general election or statewide special election, and for each regular primary and Western States Presidential Primary, each registered political party, each candidate on the ballot, each write-in candidate qualified as required in Section 20A-9-601, and any person interested in a candidate or ballot proposition appearing on the ballot may appoint [one person] persons to act as [a] voting poll [watcher] watchers to observe the casting of ballots, [another person] other persons to act as [a] counting poll [watcher] watchers to observe the counting of ballots[, and another person] and the tallying of votes for candidates and ballot propositions in the precincts and counting and collection centers, other persons to act as [an] inspecting poll [watcher] watchers to inspect the condition of, and observe the transfer and securing of, ballot packages and election returns, and other persons to act as canvassing poll watchers to inspect the condition of the election returns, the tallying of vote totals for each candidate and ballot proposition, any other proceedings at the canvass, and any proceedings at recounts.

(ii) Each party poll watcher shall be designated, and his selection made known to the election judges, by an affidavit made by the county chair of each of the parties.

(iii) Each ~~[issue]~~ poll watcher with interest in a candidate or issue shall be designated, and his selection made known to the election judges or election office, by an affidavit made by the individual appointing him.

(b) (i) For each municipal general election, municipal primary, local special election, or bond election ~~[that uses paper ballots]~~, each candidate and any person interested in ~~[an]~~ a candidate or issue appearing on the ballot may appoint ~~[one person]~~ persons to act as ~~[a]~~ voting poll ~~[watcher]~~ watchers to observe the casting of ballots, ~~[another person]~~ other persons to act as ~~[a]~~ counting poll ~~[watcher]~~ watchers to observe the counting of ballots~~[-and another person]~~ and the tallying of the votes for candidates and issues appearing on the ballot in the precincts and counting and collection centers, other persons to act as ~~[an]~~ inspecting poll ~~[watcher]~~ watchers to inspect the condition and observe the transfer and securing of ballot packages and election returns, and other persons to act as canvassing poll watchers to inspect the condition of the election returns, the tallying of vote totals for each candidate and ballot proposition, any other proceedings at the canvass, and any proceedings at recounts.

~~[(ii) For each municipal general election, municipal primary, local special election, or bond election that uses ballot cards, each candidate and any person interested in an issue appearing on the ballot may appoint one person to act as a voting poll watcher to observe the casting of ballots, another person to act as a counting poll watcher to observe the counting of ballots, and another person to act as an inspecting poll watcher to inspect the condition and observe the securing of ballot packages.]~~

~~[(iii)]~~ (ii) Each candidate poll watcher shall be designated, and his selection made known to the election judges, by an affidavit made by the candidate appointing him.

~~[(iv)]~~ (iii) Each ~~[issue]~~ poll watcher with interest in a candidate or issue shall be designated, and his selection made known to the election judges or election officer, by an affidavit made by the individual appointing him.

(2) If an appointed poll watcher is temporarily absent for meals, or is sick or otherwise absent, that poll watcher may substitute some other watcher of similar political beliefs by informing the election judges of the substitution by affidavit.

(3) Voting poll watchers may:

(a) watch and observe the voting process[-and may];

(b) make a written, picture, video, or audio tape recorded memorandum, but [they] may

not interfere in any way with the process of voting except to challenge a voter as provided in this part[-];

(c) make a written copy or photocopy of the completed and certified ballot disposition form and have the election judges sign it; and

(d) observe the election judges' preparation of the ballots and election returns for transfer to the counting or collection center.

(4) (a) The counting poll [~~watcher~~] watchers shall remain in the counting room[~~, except in the case of necessity,~~] until the close of the polls [~~and~~], except:

(i) to follow the ballot boxes from the polling place to the counting room;

(ii) to follow the ballot boxes from the counting room back to the polling place; or

(iii) in case of necessity.

(b) When the ballots are to be counted after the polls close in the precincts or in the counting and collection centers, the poll watchers shall remain in the counting area until the ballots are counted and the returns audited except in the case of necessity.

(c) Subject to the requirements of Subsection (4)(d), the counting poll watchers may make a written, picture, video, or audio tape recorded memorandum of the process.

(d) The counting poll watchers may not:

(i) interfere in any way with the process; or

(ii) divulge the progress of the count until the count is completed.

(5) (a) It is unlawful for a counting poll watcher to communicate in any manner, directly or indirectly, by word or sign, the progress of the count, the result so far, or any other information about the count.

(b) Any person who violates this subsection is guilty of a third degree felony.

(6) (a) The inspecting poll [~~watcher~~] watchers may be present at the counting and collection center and in the office of the clerk or recorder to whom ballots are delivered after elections to:

~~[(a)]~~ (i) inspect the condition of the packages containing the ballots and election returns upon their arrival; [and]

~~[(b)]~~ (ii) observe the transfer and placement of these packages in a safe and secure place[-]; and

(iii) make a written, picture, video, or audio tape recorded memorandum of the process.

(b) The inspecting poll watchers may not interfere with the process in any way.

(7) (a) The canvassing poll watchers may make a written, picture, video, or audio tape recorded memorandum of the canvass.

(b) The canvassing poll watchers may not interfere in any way.

(8) Any person appointed by this section may function in each of the poll watching positions as long as those positions are not filled concurrently by that person.

Section 6. Section **20A-3-307** is amended to read:

20A-3-307. Processing of absentee ballot.

(1) Except as provided in Subsection (2), upon receipt of an envelope containing an absentee ballot, the election officer shall:

(a) enclose the unopened envelope containing the absentee ballot and the written application of the absentee voter in a larger envelope;

(b) seal that envelope and endorse it with:

(i) the name or number of the proper voting precinct;

(ii) the name and official title of the election officer; and

(iii) the words "This envelope contains an absentee ballot and may only be opened on election day at the polls while the polls are open."; and

(c) safely keep the envelope in his office until it is delivered by him to the proper election judges.

(2) If the election officer receives envelopes containing absentee ballots too late to transmit them to the election judges on election day, the election officer shall retain those absentee ballots in a safe and secure place until they can be processed as provided in Section 20A-3-309.

(3) (a) Except as provided in Subsection (3)(c), when reasonably possible, the election officer shall deliver or mail valid absentee ballots to the appropriate voting precinct election judges so that they may be processed at the voting precinct on election day.

(b) If the election officer is unable to determine the voting precinct to which an absentee ballot should be sent, or if a valid absentee ballot is received too late for delivery on election day to election judges, the election officer shall retain the absentee ballot in a safe place until it can be processed as required by Section 20A-3-309.

(c) When the absentee ballots will be centrally counted, the election officer shall:

(i) deliver those absentee ballots to the counting center on election day for counting[-];

(ii) process them according to the requirements of Section 20A-3-308; and
(iii) allow counting poll watchers appointed under Section 20A-3-201 to witness the
processing and counting of the absentee ballots.

Section 7. Section **20A-3-308** is amended to read:

20A-3-308. Absentee ballots in the custody of election judges -- Disposition.

(1) (a) Voting precinct election judges shall open envelopes containing absentee ballots that are in their custody on election day at the polling places during the time the polls are open as provided in this Subsection (1).

(b) The election judges shall:

(i) first, open the outer envelope only; and

(ii) compare the signature of the voter on the application with the signature on the affidavit.

(2) (a) The judges shall carefully open and remove the absentee voter envelope so as not to destroy the affidavit on the envelope if they find that:

(i) the affidavit is sufficient;

(ii) the signatures correspond; and

(iii) the applicant is registered to vote in that voting precinct and has not voted in that election.

(b) The election judges shall:

(i) remove the absentee ballot from the envelope without unfolding it or permitting it to be opened or examined;

(ii) ensure that the precinct number of the precinct in which the voter was eligible to vote is written on the ballot and the ballot stub;

~~[(iv)]~~ (iii) initial the stub and the ballot in the same manner as for other ballots and have a second judge initial the stub and ballot also;

~~[(iii)]~~ (iv) remove the stub from the ballot;

~~[(iv)]~~ (v) deposit the ballot in the ballot box; and

~~[(v)]~~ (vi) mark the official register and pollbook to show that the voter has voted[-] by absentee ballot and to show whether the absentee ballot was processed:

(A) in the precinct;

(B) at the counting or collection center; or

(C) at the final canvass.

(3) If the election judges determine that the affidavit is insufficient, or that the signatures do not correspond, or that the applicant is not a registered voter in the voting precinct, they shall:

(a) disallow the vote; and

(b) without opening the absentee voter envelope, mark across the face of the envelope:

(i) "Rejected as defective"; or

(ii) "Rejected as not a registered voter."

(4) The election judges shall deposit the absentee voter envelope, when the absentee ballot is voted, and the absentee voter envelope with its contents unopened when the absent vote is rejected, in the ballot box containing the ballots.

(5) The election officer shall retain and preserve the absentee voter envelopes in the manner provided by law for the retention and preservation of official ballots voted at that election.

Section 8. Section **20A-3-309** is amended to read:

20A-3-309. Absentee ballots in the custody of the election officer -- Disposition.

(1) The election officer shall deliver all envelopes containing valid absentee ballots that are in the election officer's custody to the place of the official canvass of the election by noon on the day of the official canvass following the election.

(2) At the canvass, election judges, acting under the supervision of the official canvassers of the election, shall comply with the procedures and requirements of Section 20A-3-308[~~in opening envelopes, verifying signatures, confirming eligibility of the ballots, and depositing them in a ballot box~~].

(3) After all valid absentee ballots have been deposited, they shall be counted in the usual manner and the resulting tally for each precinct added to each precinct's returns, certified by the election officer, and included in the official canvass of the election.

Section 9. Section **20A-4-101** is amended to read:

20A-4-101. Counting paper ballots during election day.

(1) Each county legislative body or municipal legislative body that has voting precincts that use paper ballots and each election judge in those voting precincts shall comply with the requirements of this section.

(2) (a) Each county legislative body or municipal legislative body shall provide:

(i) two sets of ballot boxes for all voting precincts where both receiving and counting

judges have been appointed; and

(ii) a counting room for the use of the election judges counting the ballots during the day.

(b) At any election in any voting precinct in which both receiving and counting judges have been appointed, when at least 20 votes have been cast, the receiving judges shall:

(i) close the first ballot box and deliver it to the counting judges; and

(ii) prepare and use another ballot box to receive voted ballots.

(c) Upon receipt of the ballot box, the counting judges shall:

(i) take the ballot box to the counting room;

(ii) count the votes in the ballot box; and

(iii) when they have finished counting the votes in the ballot box, return the emptied box to the receiving judges.

(d) (i) During the course of election day, whenever there are at least 20 ballots contained in a ballot box, the receiving judges shall deliver that ballot box to the counting judges for counting; and

(ii) the counting judges shall immediately count the ballots contained in that box.

(e) The counting judges shall continue to exchange the ballot boxes and count ballots until the polls close.

(3) Counting poll watchers appointed as provided in Section 20A-3-201 may observe the count.

(4) The counting judges shall apply the standards and requirements of [~~Section 20A-4-104~~] Sections 20A-4-102 and 20A-4-105 to resolve any questions that arise as they count the ballots.

Section 10. Section **20A-4-102** is amended to read:

20A-4-102. Counting paper ballots after the polls close.

(1) (a) Except as provided in Subsection (2), as soon as the polls have been closed and the last qualified voter has voted, the election judges shall count the ballots by performing the tasks specified in this section in the order that they are specified.

(b) The election judges shall apply the standards and requirements of Section 20A-4-105 to resolve any questions that arise as they count the ballots.

(2) (a) First, the election judges shall count the number of ballots in the ballot box.

(b) (i) If there are more ballots in the ballot box than there are names entered in the pollbook, the judges shall examine the official endorsements on the ballots.

648 (ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the proper
649 official endorsement, the judges shall put those ballots in an excess ballot file and not count them.

650 (c) (i) If, after examining the official endorsements, there are still more ballots in the ballot
651 box than there are names entered in the pollbook, the judges shall place the remaining ballots back
652 in the ballot box.

653 (ii) One of the judges, without looking, shall draw a number of ballots equal to the excess
654 from the ballot box.

655 (iii) The judges shall put those excess ballots into the excess ballot envelope and not count
656 them.

657 (d) When the ballots in the ballot box equal the number of names entered in the pollbook,
658 the judges shall count the votes.

659 (3) The judges shall:

660 (a) place all unused ballots in the envelope or container provided for return to the county
661 clerk or city recorder; and

662 (b) seal that envelope or container.

663 (4) (a) In counting the votes, the election judges shall read and count each ballot
664 separately.

665 (b) In regular primary elections the judges shall:

666 (i) count the number of ballots cast for each party;

667 (ii) place the ballots cast for each party in separate piles; and

668 (iii) count all the ballots for one party before beginning to count the ballots cast for other
669 parties.

670 (5) (a) In all elections, the counting judges shall:

671 (i) count one vote for each candidate designated by the marks in the squares next to the
672 candidate's name;

673 (ii) count one vote for each candidate on the ticket beneath a marked circle, excluding any
674 candidate for an office for which a vote has been cast for a candidate for the same office upon
675 another ticket by the placing of a mark in the square opposite the name of that candidate on the
676 other ticket;

677 (iii) count each vote for each write-in candidate who has qualified by filing a declaration
678 of candidacy under Section 20A-9-601;

(iv) read every name marked on the ballot and mark every name upon the tally sheets before another ballot is counted;

(v) evaluate each ballot and each vote based on the standards and requirements of Section 20A-4-105;

(vi) write the word "spoiled" on the back of each ballot that lacks the official endorsement and deposit it in the spoiled ballot envelope; and

(vii) read, count, and record upon the tally sheets the votes that each candidate and ballot proposition received from all ballots, except excess or spoiled ballots.

(b) Election judges need not tally write-in votes for fictitious persons, nonpersons, or persons clearly not eligible to qualify for office.

(c) The judges shall certify to the accuracy and completeness of the tally list in the space provided on the tally list.

(d) When the judges have counted all of the voted ballots, they shall:

(i) record the results on the total votes cast form[:]; and

(ii) certify to the accuracy and completeness of the count in the space provided on the form.

(6) Only election judges and counting poll watchers may be present at the place where counting is conducted until the count is completed.

Section 11. Section **20A-4-103** is amended to read:

20A-4-103. Preparing ballot cards for the counting center.

(1) (a) In voting precincts using ballot cards, as soon as the polls have been closed and the last qualified voter has voted, the election judges shall prepare the ballot cards for delivery to the counting center as provided in this section.

(b) The election judges, election officers, and other persons may not manually count any votes before delivering the ballots to the counting center.

(2) (a) The judges shall check each secrecy envelope to see if either contains any write-in votes.

(b) If a secrecy envelope does not contain any write-in votes, the election judges shall remove the ballot card from the secrecy envelope.

(c) If a secrecy envelope contains any write-in votes, the election judges may not separate the ballot card from the secrecy envelope.

(3) The election judges shall place:

(a) the voted ballot cards and one copy of the statement of disposition of ballots in the transfer case;

(b) the other copy of the statement of disposition of ballots, the pollbook, any unprocessed absentee ballots, the judges' pay vouchers, the official register, and the spoiled ballot envelope in the carrier envelope provided; and

(c) the other election materials in the election supply box.

(4) The election judges may not mix election returns from different precincts together except as provided in Section 20A-5-303.

Section 12. Section **20A-4-104** is amended to read:

20A-4-104. Counting ballots electronically.

(1) (a) Before beginning to count ballot cards using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall publish public notice of the time and place of the test at least 48 hours before the test in one or more daily or weekly newspapers of general circulation published in the county, municipality, or jurisdiction where the equipment is used.

(c) The election officer shall conduct the test by processing a preaudited group of ballot cards.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballot cards;

(ii) for each office, one or more ballot cards have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or his designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot, ballot card, or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(d) (i) Counting poll watchers appointed as provided in Section 20A-3-201, and counting judges appointed as provided in Section 20A-5-602.2 may observe the testing of equipment and actual counting of the ballot cards.

(ii) Those counting poll watchers and counting judges may make independent tests of the equipment before or after the vote count as long as the testing does not interfere in any way with the official tabulation of the ballot cards.

(3) If any ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall:

(a) cause a true duplicate copy of the ballot card to be made with an identifying serial number;

(b) substitute the duplicate for the damaged ballot card;

(c) label the duplicate ballot card "duplicate"; and

(d) record the duplicate ballot card's serial number on the damaged or defective ballot card.

(4) (a) The election officer may[:]
report the progress of the official count for each candidate and ballot proposition during the actual counting of ballots.

(b) The election officer may not:

~~[(a)]~~ (i) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public; and

~~[(b)]~~ (ii) release unofficial returns from time to time after the polls close~~[:and]~~.

~~[(c) report the progress of the count for each candidate during the actual counting of~~

ballots.]

(5) (a) The election officer or his designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; ~~and~~

(ii) place each ballot containing a write-in vote back into its original secrecy envelope; and

~~[(ii)]~~ (iii) complete the standard form provided by the clerk for recording valid write-in
votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the judges shall count the valid write-in vote as being the obvious intent of the voter.

(6) (a) The election officer shall ~~[certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.];~~

(i) assure that each precinct return is counted separately with the automatic tabulating equipment;

(ii) certify and place with the precinct return a printed return from the automatic tabulating equipment that shows the tally for that precinct only, to which has been added the write-in and absentee votes for that precinct;

(iii) certify a second printed return from the automatic tabulating equipment that shows the tally for that precinct, to which has been added the write-in and absentee votes for that precinct, which will be used to tally all the results of races and propositions within the election officer's county, municipality, or special district;

(iv) place each precinct's returns back into the precinct's separate package or envelope after assuring that the precinct number is written on the outside of the package or envelope; and

(v) assure that the automated tabulating equipment's certified returns in Subsections (6)(a)(ii) through (iv) do not leave the presence of the poll watchers until any audits are complete and the total final tally is complete.

(b) Upon completion of the count, the election officer shall:

(i) make official returns open to the public[-];

(ii) within 48 hours of the election, publish on the Internet and post a copy in the office of the elections officer and the county clerk of:

(A) the results for each race and proposition, by voting precinct, under the heading

803 "Counting Center Results";

804 (B) the number of registered voters listed in the official register;

805 (C) the number of registered voters who cast votes at that precinct according to the
806 pollbook;

807 (D) the number of absentee voters from that precinct processed at the precinct according
808 to the pollbook;

809 (E) the number of absentee voters from that precinct processed at the counting or
810 collection center; and

811 (F) the number of provisional ballots cast from that precinct according to the pollbook.

812 (7) (a) If for any reason it becomes impracticable to count all or a part of the ballot cards
813 with tabulating equipment, the election officer may direct that they be counted manually according
814 to the procedures and requirements of this part.

815 (b) The election results obtained by this section may be audited under Sections
816 20A-4-104.1 and 20A-5-602.2 before the election officer seals the returns.

817 (8) After the count is completed, the election officer shall seal and retain the programs, test
818 materials, and ballots as provided in Section 20A-4-202.

819 (9) If any ballots that might need cleaning were not thoroughly cleaned in the voting
820 precincts as required by Section 20A-3-105, the election officer shall:

821 (a) have them cleaned in the presence of the poll watchers;

822 (b) assign at least one poll watcher to each person cleaning the ballots; and

823 (c) ensure that each precinct's ballots are cleaned as a group and returned to the its
824 envelope or package before another precinct's envelope or package is opened for cleaning.

825 Section 13. Section **20A-4-104.1** is enacted to read:

826 **20A-4-104.1. Performing a random hand count of the ballots and audit of the election**
827 **returns at counting centers or collection centers.**

828 (1) This section applies only when citizens authorized by Section 20A-5-602.2 are
829 appointed.

830 (2) The counting groups organized according to the requirements of this section shall
831 perform their audit by following the procedures and requirements of this section.

832 (3) If the ballots are to be counted using automated tabulating equipment, the elections
833 officer shall allow the counting judges to observe and participate in the testing of equipment as

834 required by Section 20A-4-104.

835 (4) The election officer or his assignee shall:

836 (a) allow each counting groups' members to stay together and function separately from
837 other counting groups;

838 (b) randomly divide the counting judges into counting teams, consisting of two judges each
839 within the counting group;

840 (c) designate which counting teams the supervising counting judges shall supervise within
841 the counting group; and

842 (d) randomly assign each team to a counting station, and if possible, place one counting
843 station on one side of table towards one end, and another counting station on the other side of the
844 table towards the opposite end of the table.

845 (5) (a) The election officer shall give the counting judges all the returns from the chosen
846 precinct, including the return printed by the electronic, computerized, or automated tabulating
847 equipment.

848 (b) Each counting group shall count all the votes from the precincts they randomly select
849 and may audit all of the returns including the absentee ballots, counted and uncounted ballots,
850 excess ballots, spoiled ballots, write-in votes, hard copy ballots, ballot disposition form, tally lists,
851 total votes cast form, poll book, posting book, affidavits of registration, military and overseas
852 absentee voter registration and voting certificates, official register, and the printed return from any
853 electronic, computerized, or automated vote system used in the election officer's jurisdiction.

854 (c) The supervising counting judges shall supervise their counting group.

855 (6) (a) If the ballots are to be counted by electronic, computerized, or automated tabulating
856 equipment at the counting or collection center, each supervising counting judges shall:

857 (i) randomly select the returns from one precinct that has already been counted by the
858 equipment, count its ballots, and audit the returns; and

859 (ii) continue this process until the automated counting is complete.

860 (b) If the ballots were counted by hand or by electronic, computerized, or automated
861 tabulating equipment in the precincts, each supervising counting judge shall:

862 (i) select the returns from one precinct at a time, count its ballots, and audit the returns;
863 and

864 (ii) continue this process until counting is complete.

865 (c) First, the supervising counting judges shall count the number of ballots in the precinct
866 returns excluding the excess or spoiled ballots.

867 (d) (i) If there are more ballots counted than there are names entered in the pollbook, the
868 judges shall examine the official endorsement on the ballots.

869 (ii) If, in the unanimous opinion of all of the supervising counting judges in that group and
870 the elections officer or his assignee, any of the ballots do not bear the proper official endorsement,
871 the counting judges shall put those ballots in an excess ballot file and not count them.

872 (e) (i) If, after examining the official endorsements, there are still more ballots than there
873 are names entered in the pollbook, the judges shall mix the remaining ballots back into the ballot
874 pile.

875 (ii) One of the judges, without looking, shall draw a number of ballots equal to the excess
876 from the ballot pile.

877 (iii) The judges shall put those excess ballots into the excess ballot envelope and not count
878 them.

879 (f) When the ballots in the ballot pile equal the number of names entered in the pollbook,
880 the supervising counting judges shall divide the ballots among the counting teams as evenly as
881 possible, and record the number given to each team.

882 (7) (a) In counting the votes, the election judges shall read and count each ballot
883 separately.

884 (b) In regular primary elections the judges shall:

885 (i) count the number of ballots cast for each party;

886 (ii) place the ballots cast for each party in separate piles; and

887 (iii) count all the ballots for one party before beginning to count the ballots cast for other
888 parties.

889 (8) (a) In all elections, the counting judges shall:

890 (i) apply the standards and requirements of Section 20A-4-105;

891 (ii) count each vote for each write-in candidate who has qualified by filing a declaration
892 of candidacy under Section 20A-9-601;

893 (iii) read every name and ballot proposition marked on the ballot and mark every name and
894 ballot proposition upon the tally sheets before another ballot is counted;

895 (iv) evaluate each ballot and each vote based on the standards and requirements of Section

896 20A-4-105;

897 (v) evaluate the official endorsement on each ballot, including comparing the two
898 receiving judges' initials that should be on the ballot, to the ballot disposition form which contains
899 the judges' signatures and initials;

900 (vi) if, in the unanimous opinion of all of the supervising counting judges in that group and
901 the elections officer or his assignee, any of the ballots do not bear the proper official endorsement,
902 write the word "spoiled" on the back of each ballot that lacks the official endorsement and deposit
903 it in the spoiled ballot envelope;

904 (vii) read, count, and record upon the tally sheets the votes that each candidate and ballot
905 proposition received from all ballots, except excess or spoiled ballots; and

906 (viii) for ballot cards, count one vote for each candidate or ballot proposition choice
907 designated by the punched out chad that is in or next to the numbered squares that corresponds to
908 each candidate's name or particular ballot proposition choice.

909 (b) Counting judges need not tally write-in votes for fictitious persons, nonpersons, or
910 persons clearly not eligible to qualify for office.

911 (c) Each judge assigned to a counting team shall certify to the accuracy and completeness
912 of the tally list from their counting team in the space provided on the tally list after the team double
913 checks the added totals for each candidate and ballot proposition.

914 (d) When each counting team has finished counting all the voted ballots and certified their
915 tally lists, they shall watch the supervising counting judges from their group add with a calculator
916 all the tally lists totals for each candidate and ballot proposition for that precinct, check the
917 addition a second time, then record the results on the total votes cast form.

918 (e) After double checking and recording the results on the total votes cast form, the judges
919 shall:

920 (i) certify to the accuracy and completeness of the total votes cast form by having each
921 counting judge sign the form in the space provided on the form;

922 (ii) make a photocopy of the audit of the total votes cast form, and a copy of the certified
923 printed return from the electronic, computerized, or automated vote system of the precinct counted
924 total votes cast form, for each supervising counting judge from the precinct audited;

925 (iii) compare the audit results with the counting center or precinct counted results;

926 (iv) if the audit results do not match exactly to the counting center or precinct counted

927 results, calculate the percentage difference in each race or proposition, report those differences to
928 the election officer, and, if the percentage difference is more than 1%, notify in person or by
929 telephone, within 24 hours:

930 (A) the chair of each political party on the ballot;

931 (B) each candidate on the ballot that has a percentage difference of more than 1%; and

932 (C) each group that sponsored or opposed a ballot proposition that has a percentage
933 difference more than 1%;

934 (v) make a report commenting on the hand count and audit and give a photocopy of the
935 report to the elections officer and each supervising counting judge;

936 (vi) place the total votes cast form from the audit, the signed report commenting on the
937 audit, and the printed return from the electronic, computerized, or automated vote system into the
938 package with the election returns; and

939 (vii) in the presence of the election officer, seal the returns.

940 (f) (i) The supervising counting judges shall keep all photocopies from the hand count and
941 audit from each precinct for 22 months after the election.

942 (ii) Those copies are public records under Title 63, Chapter 2, Government Records
943 Access and Management Act.

944 (9) (a) When each counting group is finished auditing the precincts selected, they shall
945 together recheck the final total tally for all candidates and ballot propositions within the election
946 officer's jurisdiction and shall:

947 (i) for precincts counted by an electronic, computerized, or automated vote system, use
948 each precinct's printed certified election returns to which have been added write-in and absentee
949 votes for that precinct;

950 (ii) for precincts that were not counted by an electronic, computerized, or automated voting
951 system, use each precinct's total votes cast form to which has been added write-in and absentee
952 votes for that precinct;

953 (iii) when there is a discrepancy between the results, the election officer shall retabulate
954 the final total tally using the methods in Subsections (9)(a)(i) and (ii); and

955 (iv) if the election officer's retabulation does not match the counting groups' results, the
956 counting groups and the election judge shall retabulate the results as many times as necessary until
957 the results match.

(b) (i) When the counting groups and the elections officer are completed with the recheck of the final total tally, they shall make a copy of the final total tally sheet for all supervising counting judges in each counting group.

(ii) The supervising counting judges shall keep a copy of the final total tally sheet for 22 months following the election.

(iii) The final total tally sheet is a public record under Title 63, Chapter 2, Government Records Access and Management Act.

(10) If not all precincts' or polling places' returns have been received at the counting center or collection place on the election night, the counting groups may continue the audit on the following days when the returns are received.

(11) After the completion of the random ballot counting and audit at the counting or collection centers, the election officer shall:

(a) make the returns open to the public; and

(b) publish the results as required by Subsection 20A-4-104(9)(b).

Section 14. Section **20A-4-105** is amended to read:

20A-4-105. Standards and requirements for evaluating voter's ballot choices.

(1) Each person counting ballots shall apply the standards and requirements of this section to resolve any questions that arise as ballots are counted.

(2) Except as provided in Subsection (11), if a voter marks more names than there are persons to be elected to an office, or if for any reason it is impossible to determine the choice of any voter for any office to be filled, the counter may not count that voter's ballot for that office.

(3) The counter shall count a defective or incomplete mark on any paper ballot, ballot card, or other hard copy ballot if:

(a) it is in the proper place; and

(b) there is no other mark [~~or~~], cross, dimpled chad, pregnant chad, or hanging chad on the [~~paper~~] ballot indicating the voter's intent to vote other than as indicated by the defective mark.

(4) (a) When the voter has marked the ballot so that it appears that the voter has voted more than one straight ticket, the election judges may not count any votes for party candidates.

(b) The election judges shall count the remainder of the ballot if it is voted correctly.

(5) A counter may not reject a ballot marked by the voter because of marks on the ballot other than those marks allowed by this section unless the extraneous marks on a ballot or group

989 of ballots show an intent by a person or group to mark their ballots so that their ballots can be
990 identified.

991 (6) (a) In counting the ballots, the counters shall give full consideration to the intent of the
992 voter.

993 (b) The counters may not invalidate a ballot because of mechanical and technical defects
994 in voting or failure on the part of the voter to follow strictly the rules for balloting required by
995 Chapter 3.

996 (7) The counters may not reject a ballot because of any error in:

997 (a) stamping or writing any official endorsement; or

998 (b) delivering the wrong ballots to any polling place.

999 (8) The counter may not count any paper ballot, ballot card, or other hard copy ballot that
1000 does not have the official endorsement by an election officer and the election judges' initials.

1001 (9) If the counter discovers that the name of a candidate voted for is misspelled or that the
1002 initial letters of a candidate's given name are transposed or omitted in part or altogether, the
1003 counter shall count the voter's vote for that candidate if it is apparent that the voter intended to vote
1004 for that candidate.

1005 (10) The counter shall count a vote for the president and the vice president of any political
1006 party as a vote for the presidential electors selected by the political party.

1007 (11) In counting the valid write-in votes, if, by casting a valid write-in vote, a voter has
1008 cast more votes for an office than that voter is entitled to vote for that office, the judges shall count
1009 the valid write-in vote as being the obvious intent of the voter.

1010 Section 15. Section **20A-4-106** is amended to read:

1011 **20A-4-106. Paper ballots -- Sealing.**

1012 (1) (a) (i) At all elections using paper ballots, as soon as the counting judges have read and
1013 tallied the ballots, they shall string the counted, excess, and spoiled ballots on separate strings.

1014 (ii) After the ballots are strung, they may not be examined by anyone, except when
1015 examined during a recount conducted under the authority of Section 20A-4-401 or a random hand
1016 count and audit authorized by Sections 20A-4-104.1 and 20A-5-602.2.

1017 (b) The judges shall carefully seal all of the strung ballots in a strong envelope.

1018 (2) (a) For regular primary elections, after all the ballots have been counted, certified to,
1019 and strung by the judges, they shall seal the ballots cast for each of the parties in separate

1020 envelopes.

1021 (b) The judges shall:

1022 (i) seal each of the envelopes containing the votes of each of the political parties in one
1023 large envelope; and

1024 (ii) return that envelope to the county clerk.

1025 (c) The judges shall[:] return the blank ballots in the blank ballot box to the election officer
1026 for destruction.

1027 ~~[(i) destroy the ballots in the blank ballot box; or]~~

1028 ~~[(ii) if directed to do so by the election officer, return them to the election officer for~~
1029 ~~destruction.]~~

1030 (3) As soon as the judges have counted all the votes, certified the tally sheets and the total
1031 votes cast form, and sealed the ballots, they shall sign and certify the pollbooks and the ballot
1032 disposition form.

1033 (4) (a) The judges, before they adjourn, shall:

1034 (i) enclose and seal the official register, the posting book, the pollbook, all affidavits of
1035 registration received by them, the ballot disposition form, the military and overseas absentee voter
1036 registration and voting certificates, one of the tally sheets, and any unprocessed absentee ballots
1037 in a strong envelope or pouch;

1038 (ii) ensure that all counted ballots, all excess ballots, and all spoiled ballots have been
1039 strung and placed in a separate envelope or pouch as required by Subsection (1);

1040 (iii) place all unused ballots, all spoiled ballots, one tally list, and a copy of the ballot
1041 disposition form in a separate envelope or pouch; and

1042 (iv) place the total votes cast form and the judges' vouchers requesting compensation for
1043 services rendered in a separate pouch.

1044 (b) Before enclosing the official register in the envelope or pouch, the election judges shall
1045 certify it substantially as follows:

1046 "We, the undersigned, judges of election for precinct _____, (jurisdiction) _____,
1047 Utah, certify that the required entries have been made for the election held
1048 _____(month\day\year), including:

1049 a list of the ballot numbers for each voter;

1050 the voters' signatures, except where a judge has signed for the absentee voters;

1051 a list of information surrounding a voter who is challenged,
1052 including any affidavits; and
1053 a notation for each time a voter was assisted with a ballot."

1054 (5) Each judge shall:

1055 (a) write his name across the seal of each envelope or pouch; and

1056 (b) mark on the exterior of the envelope or pouch:

1057 (i) the word "ballots" or "returns" or "unused ballots," or other words plainly indicating
1058 the contents of the packages; and

1059 (ii) the number of the voting precinct.

1060 Section 16. Section **20A-4-201** is amended to read:

1061 **20A-4-201. Delivery of election returns.**

1062 (1) One judge shall deliver the ballot box, the lock, and the key to:

1063 (a) the election officer; or

1064 (b) the location directed by the election officer.

1065 (2) (a) Before they adjourn, the election judges shall:

1066 (i) for paper ballots and other hard copy ballots, choose [~~one~~] two of their number, each
1067 from a different political party, to deliver the election returns to the [~~election officer~~] counting or
1068 collection center as directed by the election officer; and

1069 (ii) for ballot cards, choose two of their number, each from a different political party, to
1070 deliver the election returns to the counting center.

1071 (b) [~~That judge or those~~] Those judges shall:

1072 (i) deliver the unopened envelopes or pouches to the election officer or counting center
1073 immediately but no later than 24 hours after the polls close; or

1074 (ii) if the polling place is 15 miles or more from the county seat, mail the election returns
1075 to the election officer by registered mail from the post office most convenient to the polling place
1076 within 24 hours after the polls close.

1077 (3) The election officer shall pay each election judge that transports election returns \$2
1078 plus 30 cents per mile, one way, for every mile necessarily traveled between the polling place and
1079 the place of delivery.

1080 Section 17. Section **20A-4-202** is amended to read:

1081 **20A-4-202. Election officers -- Disposition of ballots.**

(1) (a) Upon receipt of the election returns from an election judge, the election officer shall:

(i) ensure that the election judge has provided all of the ballots and election returns;

(ii) allow counting judges authorized by Sections 20A-4-104.1 and 20A-5-602.2 to randomly hand count the ballots and audit the returns;

~~[(ii)]~~ (iii) inspect the ballots and election returns to ensure that they are sealed; and

~~[(iii)]~~ (iv) (A) for paper ballots, deposit and lock the ballots and election returns in a safe and secure place; or

(B) for punch card ballots, count the ballots and deposit and lock the ballots and election returns in a safe and secure place.

(b) Inspecting poll watchers appointed as provided in Section 20A-3-201 may be present and observe the election officer's receipt, inspection, transfer, and deposit of the ballots and election returns.

(2) Each election officer shall:

(a) preserve ballots and all other official election returns, including the election returns generated under Section 20A-4-104.1, for 22 months after the election ~~[or until the time has expired during which the ballots could be used in an election contest]~~ and until all pending election contests, and civil or criminal court cases in which the returns could be used, are completed, including any appeals;

(b) package and seal a true copy of the ballot label used in each voting precinct; and

~~[(c) preserve all other official election returns for at least 22 months after an election; and]~~

~~[(d)]~~ (c) after that time, destroy ~~[them]~~ all election returns without opening or examining them.

(3) (a) The election officer shall package and retain all tabulating cards, software, and other materials used in the programming of the ~~[automatic tabulating equipment;]~~ electronic, computerized, or automated vote systems.

(b) The election officer:

(i) may access these tabulating cards, and software, and other materials only when directed to produce them for a recount or pursuant to a court order or subpoena;

(ii) may make copies of these materials ~~[and make changes to the copies]~~ only when directed to do so for a recount or pursuant to a court order or subpoena;

(iii) may not alter or make changes to the materials themselves; and

(iv) ~~[within]~~ shall preserve the tabulating cards, software, and other materials used in the programming of the automatic tabulating equipment and computerized or automated vote systems for at least 22 months after the election in which they were used~~[, may dispose of those materials or retain them]~~ and until all pending election contests, and civil or criminal court cases in which the returns could be used, are completed, including any appeals.

(4) (a) If an election contest or court case in which these materials maybe used is begun within ~~[12]~~ 22 months, the election officer shall:

(i) keep the ballots and election returns unopened and unaltered until the contest is complete; or

(ii) surrender the ballots and election returns to the custody of the court having jurisdiction of the contest when ordered or subpoenaed to do so by that court.

(b) When all election contests arising from an election are complete, the election officer shall either:

(i) retain the ballots and election returns until the time for preserving them under this section has run; or

(ii) destroy the ballots and election returns remaining in his custody without opening or examining them if the time for preserving them under this section has run.

Section 18. Section **20A-4-301** is amended to read:

20A-4-301. Board of canvassers.

(1) (a) Each county legislative body is the board of county canvassers for the county and for each special district whose election is conducted by the county.

(b) (i) Except as provided in Subsection (1)(b)(ii), the board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at noon on the Monday after the election.

(ii) When canvassing returns for the Western States Presidential Primary, the board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at noon on the Thursday after the election.

(c) If one or more of the county legislative body fails to attend the meeting of the board of county canvassers, the remaining members shall replace the absent member by appointing in the order named:

- 1144 (i) the county treasurer;
1145 (ii) the county assessor; or
1146 (iii) the county sheriff.
- 1147 (d) The board of county canvassers shall always consist of three or more acting members.
1148 (e) The county clerk is the clerk of the board of county canvassers.
- 1149 (2) (a) The mayor and the municipal legislative body are the board of municipal canvassers
1150 for the municipality.
- 1151 (b) The board of municipal canvassers shall meet to canvass the returns at the usual place
1152 of meeting of the municipal legislative body no sooner than three days and no later than seven days
1153 after the election.
- 1154 (3) (a) This part does not apply to bond elections.
- 1155 (b) Persons responsible for canvassing bond elections shall comply with the canvassing
1156 procedures and requirements of Title 11, Chapter 14, Utah Municipal Bond Act.
- 1157 Section 19. Section **20A-4-303** is amended to read:
- 1158 **20A-4-303. Duties of the board of canvassers -- Canvassing the returns.**
- 1159 (1) (a) The board of canvassers shall canvass the election returns by publicly opening the
1160 returns and determining from them the votes of each voting precinct and the total votes cast within
1161 the board of canvassers' jurisdiction for:
- 1162 (i) each person voted for; and
1163 (ii) for and against each ballot proposition voted upon at the election.
- 1164 (b) The board of canvassers shall, once having begun the canvass, continue until it is
1165 completed.
- 1166 (2) In canvassing returns, the board of canvassers may not:
- 1167 (a) reject any election returns if the board can determine the number of votes cast for each
1168 person from it;
- 1169 (b) reject any election returns if the election returns:
- 1170 (i) do not show who administered the oath to the judges of election;
1171 (ii) show that the election judges failed to fill out all the certificates in the pollbooks; or
1172 (iii) show that the election judges failed to do or perform any other act in preparing the
1173 returns that is not essential to determine for whom the votes were cast; and
1174 (c) reject any returns from any voting precinct that do not conform with the requirements

for making, certifying, and returning the returns if those returns are sufficiently explicit to enable the board of canvassers to determine the number of votes cast for each person and for and against each ballot proposition.

(3) (a) If it clearly appears to the election officer and board of canvassers that certain matters are omitted or that clerical mistakes exist in election returns received, they shall transmit the election returns to the election judges for correction.

(b) Upon receipt of the election returns for correction from the board of canvassers, the election judges shall correct the election returns as required by the facts.

(c) The clerk and the board of canvassers may adjourn from day to day to await receipt of corrected election material.

(4) The board of canvassers shall allow canvassing poll watchers appointed as provided in Section 20A-3-201 to be present to inspect the condition of the election returns, the counting of absentee ballots, the tallying of vote totals, recounts, and any other proceedings that occur during the canvass.

Section 20. Section **20A-4-304** is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

1206 (d) if applicable, certify the results of each special district election to the special district
1207 clerk.

1208 (2) (a) As soon as the result is declared or certified, the election officer shall prepare a
1209 report of the result, which shall contain:

1210 (i) the total number of votes cast in the board's jurisdiction;

1211 (ii) the names of each candidate whose name appeared on the ballot;

1212 (iii) the title of each ballot proposition that appeared on the ballot;

1213 (iv) each office that appeared on the ballot;

1214 (v) from each voting precinct:

1215 (A) the number of votes for each candidate; ~~and~~

1216 (B) the number of votes for and against each ballot proposition;

1217 (C) the number of absentee ballots cast; and

1218 (D) the number of provisional ballots cast;

1219 (vi) the total number of votes given in the board's jurisdiction to each candidate, and for
1220 and against each ballot proposition; and

1221 (vii) a statement certifying that the information contained in the report is accurate.

1222 (b) The election officer and the board of canvassers shall:

1223 (i) review the report to ensure that it is correct; and

1224 (ii) sign the report.

1225 (c) The election officer shall:

1226 (i) record or file the certified report in a book kept for that purpose;

1227 (ii) prepare and transmit a certificate of nomination or election under the officer's seal to
1228 each nominated or elected candidate;

1229 (iii) within five days of the canvass, publish a copy of the certified report in a newspaper
1230 with general circulation in the board's jurisdiction ~~and~~, post it in a conspicuous place within the
1231 jurisdiction, and post it on the Internet; and

1232 (iv) within five days of the canvass, file a copy of the certified report with the lieutenant
1233 governor.

1234 (3) When there has been a regular general or a statewide special election for statewide
1235 officers, for officers that appear on the ballot in more than one county, or for a statewide or two
1236 or more county ballot proposition, each board of canvassers shall, within five days of the canvass:

1237 (a) prepare a separate report detailing the number of votes for each candidate and the
1238 number of votes for and against each ballot proposition; and

1239 (b) transmit it by registered mail to the lieutenant governor.

1240 (4) In each county election, municipal election, school election, special district election,
1241 and local special election, the election officer shall transmit the reports to the lieutenant governor
1242 within ~~[14]~~ five days of the canvass.

1243 (5) In regular primary elections and in the Western States Presidential Primary, the board
1244 shall transmit to the lieutenant governor:

1245 (a) the county totals for multicounty races, to be telephoned or faxed to the lieutenant
1246 governor:

1247 (i) not later than the Tuesday after the primary election for the regular primary election;
1248 and

1249 (ii) not later than the Friday after the election for the Western States Presidential Primary;
1250 and

1251 (b) a complete tabulation showing voting totals for all primary races, precinct by precinct,
1252 to be ~~[mailed]~~ sent by registered mail to the lieutenant governor ~~[on or before the second Friday~~
1253 ~~following the primary election]~~ within five days of the canvass.

1254 Section 21. Section **20A-4-306** is amended to read:

1255 **20A-4-306. Statewide canvass.**

1256 (1) (a) The state board of canvassers shall convene:

1257 (i) on the fourth Monday of November, at noon; or

1258 (ii) at noon on the day following the receipt by the lieutenant governor of the last of the
1259 returns of a statewide special election.

1260 (b) The state auditor, the state treasurer, and the attorney general are the state board of
1261 canvassers.

1262 (2) (a) The state board of canvassers shall:

1263 (i) meet in the lieutenant governor's office; and

1264 (ii) compute and determine the vote for officers and for and against any ballot propositions
1265 voted upon by the voters of the entire state or of two or more counties.

1266 (b) The lieutenant governor, as secretary of the board shall file a report in his office that
1267 details:

1268 (i) for each statewide officer and ballot proposition:
1269 (A) the name of the statewide office or ballot proposition that appeared on the ballot;
1270 (B) the candidates for each statewide office whose names appeared on the ballot, plus any
1271 recorded write-in candidates;
1272 (C) the number of votes from each county cast for each candidate and for and against each
1273 ballot proposition;
1274 (D) the total number of votes cast statewide for each candidate and for and against each
1275 ballot proposition; and
1276 (E) the total number of votes cast statewide; and
1277 (ii) for each officer or ballot proposition voted on in two or more counties:
1278 (A) the name of each of those offices and ballot propositions that appeared on the ballot;
1279 (B) the candidates for those offices, plus any recorded write-in candidates;
1280 (C) the number of votes from each county cast for each candidate and for and against each
1281 ballot proposition; and
1282 (D) the total number of votes cast for each candidate and for and against each ballot
1283 proposition.
1284 (c) The lieutenant governor shall:
1285 (i) prepare certificates of election for:
1286 (A) each successful candidate; and
1287 (B) each of the presidential electors of the candidate for president who received a majority
1288 of the votes;
1289 (ii) authenticate each certificate with his seal; and
1290 (iii) deliver a certificate of election to:
1291 (A) each candidate who had the highest number of votes for each office; and
1292 (B) each of the presidential electors of the candidate for president who received a majority
1293 of the votes.
1294 (3) If the lieutenant governor has not received election returns from all counties on the fifth
1295 day before the day designated for the meeting of the state board of canvassers, the lieutenant
1296 governor shall:
1297 (a) send a messenger to the clerk of the board of county canvassers of the delinquent
1298 county;

1299 (b) instruct the messenger to demand a certified copy of the board of canvasser's report
1300 required by Section 20A-4-304 from the clerk; and

1301 (c) pay the messenger the per diem provided by law as compensation.

1302 (4) The state board of canvassers may not withhold the declaration of the result or any
1303 certificate of election because of any defect or informality in the returns of any election if the board
1304 can determine from the returns, with reasonable certainty, what office is intended and who is
1305 elected to it.

1306 (5) (a) At noon on the third Monday after the regular primary election, the lieutenant
1307 governor shall:

1308 (i) canvass the returns for all multicounty candidates required to file with the office of the
1309 lieutenant governor; and

1310 (ii) publish and file the results of the canvass in the lieutenant governor's office.

1311 (b) The lieutenant governor shall certify the results of the primary canvass to the county
1312 clerks not later than the August 1 after the primary election.

1313 (6) (a) At noon on the third Thursday after the Western States Presidential Primary
1314 election, the lieutenant governor shall:

1315 (i) canvass the returns; and

1316 (ii) publish and file the results of the canvass in the lieutenant governor's office.

1317 (b) The lieutenant governor shall certify the results of the Western States Presidential
1318 Primary canvass to each registered political party that participated in the primary not later than the
1319 April 15 after the primary election.

1320 (7) Within five days of the final canvass, the lieutenant governor shall publish each filed
1321 report required by this section:

1322 (a) in a newspaper of general circulation in each county; and

1323 (b) on the Internet.

1324 (8) The board of canvassers shall allow canvassing poll watchers appointed as provided
1325 in Section 20A-3-201 to be present to inspect the condition of the election returns, the counting
1326 of absentee ballots, the tallying of vote totals, recounts, and any other proceedings that occur
1327 during the canvass.

1328 Section 22. Section **20A-4-401** is amended to read:

1329 **20A-4-401. Recounts -- Procedure.**

(1) (a) (i) For any regular primary, regular general, or municipal general election, or the Western States Presidential primary, ~~[when any candidate loses by not more than a total of one vote per voting precinct,]~~ the losing candidate may file a request for a recount with the appropriate election officer within seven days after the canvass if:

(A) the candidate lost by less than 1% of the total votes cast for that race;

(B) a precinct's printed return from the electronic, computerized, or automated vote system did not match within 1% of the hand counted audit results for that individual precinct conducted under Section 20A-4-104.1; or

(C) a total votes cast form certified in the precinct did not match within 1% of the hand counted audit results for that individual precinct conducted under Section 20A-4-104.1.

(ii) For any municipal primary election, ~~[when any candidate loses by not more than a total of one vote per voting precinct, the]~~ any losing candidate may file a request for a recount with the appropriate election officer within three days after the canvass if:

(A) the candidate lost by less than 1% of the total votes cast for that race;

(B) a precinct's printed return from the electronic, computerized, or automated vote system did not match within 1% of the hand counted audit results for that individual precinct conducted under Section 20A-4-104.1; or

(C) a total votes cast form certified in the precinct did not match within 1% of the hand counted audit results for that individual precinct conducted under Section 20A-4-104.1.

(b) The election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for that office by hand, using counting judges, if they were appointed under Section 20A-5-602.2, or, if they were not appointed, or additional judges are needed, using election judges appointed under Section 20A-5-601 or 20A-5-602;

(iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part 3; ~~[and]~~

(iv) declare elected the person receiving the highest number of votes on the recount; and

(v) allow canvassing poll watchers appointed as provided in Section 20A-3-201 to be present to inspect the condition of the election returns, the counting of absentee ballots, the tallying of vote totals, and any other proceedings that occur during the recount.

(2) (a) Any ten voters who voted in an election when any ballot proposition was on the

1361 ballot may file a request for a recount with the appropriate election officer within seven days of
1362 the canvass if:

1363 (i) the ballot proposition lost by less than 1% of the total votes cast for that proposition;

1364 (ii) a precinct's printed return from the electronic, computerized, or automated vote system
1365 did not match within 1% of the hand counted audit results for that individual precinct conducted
1366 under Section 20A-4-104.1; or

1367 (iii) a total votes cast form certified in the precinct did not match within 1% of the hand
1368 counted audit results for that individual precinct conducted under Section 20A-4-104.1.

1369 (b) The election officer shall:

1370 (i) supervise the recount;

1371 (ii) recount all ballots cast for that ~~[ballot proposition]~~ ballot proposition by hand, using
1372 counting judges, if they were appointed under Section 20A-5-602.2, or, if they were not appointed,
1373 or additional judges are needed, using election judges appointed under Section 20A-5-601 or
1374 20A-5-602;

1375 (iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part
1376 3; ~~[and]~~

1377 (iv) declare the ballot proposition to have "passed" or "failed" based upon the results of
1378 the recount; and

1379 (v) allow canvassing poll watchers appointed as provided in Section 20A-3-201 to be
1380 present to inspect the condition of the election returns, the counting of absentee ballots, the tallying
1381 of vote totals, and any other proceedings that occur during the recount.

1382 (c) Proponents and opponents of the ballot proposition may designate representatives to
1383 witness the recount.

1384 ~~[(d) The person or entity requesting the recount shall pay the costs of the recount.]~~

1385 (3) Costs incurred by recount under Subsection (1) or (2) may not be assessed against the
1386 person requesting the recount.

1387 Section 23. Section **20A-5-302** is amended to read:

1388 **20A-5-302. Automated voting system.**

1389 (1) Any county or municipal legislative body or special district board may:

1390 (a) adopt, experiment with, acquire by purchase, lease, or otherwise, or abandon any
1391 automated voting system that meets the requirements of this section; and

(b) use that system in any election, in all or a part of the voting precincts within its boundaries, or in combination with paper ballots.

(2) (a) Each automated voting system shall:

(i) provide for voting in secrecy, except in the case of voters who have received assistance as authorized by Section 20A-3-108;

(ii) permit each voter at any election to:

(A) vote for all persons and offices for whom and for which that voter is lawfully entitled to vote;

(B) vote for as many persons for an office as that voter is entitled to vote; and

(C) vote for or against any ballot proposition upon which that voter is entitled to vote;

(iii) permit each voter, at presidential elections, by one mark or punch to vote for the candidates of that party for president, vice president, and for their presidential electors;

(iv) permit each voter, at any regular general election, to vote for all the candidates of one registered political party by making one mark or punch;

(v) permit each voter to scratch vote;

(vi) at elections other than primary elections, permit each voter to vote for the nominees of one or more parties and for independent candidates;

(vii) at primary elections:

(A) permit each voter to vote for candidates of the political party of his choice; and

(B) reject any votes cast for candidates of another party;

(viii) prevent the voter from voting for the same person more than once for the same office;

(ix) include automatic tabulating equipment that rejects choices recorded on a voter's ballot if the number of the voter's recorded choices is greater than the number which the voter is entitled to vote for the office or on the measure;

(x) be of durable construction, suitably designed so that it may be used safely, efficiently, and accurately in the conduct of elections and counting ballots; ~~and~~

(xi) when properly operated, record correctly and count accurately each vote cast[-];

(xii) produce a hard copy ballot that has the official endorsement and that can be hand counted for secondary verification, audits, and recounts;

(xiii) when used at a counting or collection center, print an election return for each

1423 individual precinct;

1424 (xiv) when used at a precinct, print an election return for that individual precinct; and

1425 (xv) not contain internal or external modems or other technology used to communicate

1426 electronically over a computer network, telephone lines, cellular telephone, radio, or other

1427 communication technology.

1428 (b) Notwithstanding any other provisions of this section, the election officers shall ensure

1429 that the ballots to be counted by means of electronic or electromechanical devices are of a size,

1430 layout, texture, and printed in a type of ink or combination of inks that will be suitable for use in

1431 the counting devices in which they are intended to be placed.

1432 Section 24. Section **20A-5-302.1** is enacted to read:

1433 **20A-5-302.1. Electronic, computerized or automated voting systems.**

1434 (1) Each electronic, computerized, or automated voting system that any county or

1435 municipal legislative body or special service district board chooses to use shall:

1436 (a) produce a hard copy ballot that:

1437 (i) has the official endorsement;

1438 (ii) can be hand counted for secondary verification of the results, audits, and recounts;

1439 (iii) the voter can use to verify his voting intent;

1440 (iv) must be deposited by the voter in a ballot box for his precinct; and

1441 (v) can be hand counted when Section 20A-5-602 applies;

1442 (b) before the vote system records the vote, allow the voter to revote if the hard copy ballot

1443 produced does not correctly show the voter's intent, and, after the revote, produces a new hard copy

1444 ballot for the voter to again verify as his intent;

1445 (c) record undervotes and overvotes for each race and ballot proposition;

1446 (d) print an election return for each individual precinct when used at a central counting

1447 center, and print an election return for the precinct if used at the precinct;

1448 (e) not contain internal and external modems or other technology used to communicate

1449 electronically over a computer network, telephone lines, cellular telephone, radio, or other

1450 communication technology; and

1451 (f) conform to the requirements of Section 20-5-302 that do not conflict with this section.

1452 (2) The requirements of this section exclude vote systems purchased before January 1,

1453 2001, but not when those systems are upgraded and the upgrade options from the vendor include

1454 any of the features required by this section.

1455 Section 25. Section **20A-5-303** is amended to read:

1456 **20A-5-303. Establishing, dividing, abolishing, and changing voting precincts --**
1457 **Common polling places -- Combined voting precincts -- Counties.**

1458 (1) The county legislative body may establish, divide, abolish, and change voting precincts.

1459 (2) (a) The county legislative body shall alter or divide voting precincts so that each voting
1460 precinct contains not more than 1,000 active voters.

1461 (b) The county legislative body shall:

1462 (i) identify those precincts that may reach 1,000 active voters or become too large to
1463 facilitate the election process; and

1464 (ii) divide those precincts before February 1.

1465 (3) The county legislative body may not:

1466 (a) establish or abolish any voting precinct after February 1, of a regular general election
1467 year; or

1468 (b) alter or change the boundaries of any voting precinct after February 1, of a regular
1469 general election year.

1470 (4) For the purpose of balloting on regular primary or regular general election day, the
1471 county legislative body may establish a common polling place for two or more whole voting
1472 precincts according to the following requirements:

1473 (a) the total population of the voters authorized to vote at the common polling place may
1474 not exceed 3,000 active voters;

1475 (b) the voting precincts voting at the common polling place shall all lie within the same
1476 legislative district; ~~and~~

1477 (c) the voting precincts voting at, and the location of, the common polling place shall be
1478 designated at least 90 days before the election; and

1479 (d) except as provided in Subsection (5), each voting precinct shall have a separate ballot
1480 box.

1481 (5) In addition to the authorizations contained in Subsection (4), in regular primary
1482 elections only, the county legislative body may combine voting precincts and use one set of
1483 election judges for the combined precincts if the ballots for each of the combined precincts are
1484 identical.

1485 Section 26. Section **20A-5-401** is amended to read:

1486 **20A-5-401. Official register and posting book -- Preparation -- Contents.**

1487 (1) (a) Before the registration days for each regular general, municipal general, regular
1488 primary, municipal primary, or Western States Presidential Primary election, each county clerk
1489 shall prepare an official register and posting list of voters for each voting precinct that will
1490 participate in the election.

1491 (b) The county clerk shall ensure that the official register and posting list are bound or
1492 loose leaf books prepared for the alphabetical entry of names and ruled in columns of suitable
1493 dimensions to provide for the following entries:

1494 (i) registered voter's name;

1495 (ii) party affiliation;

1496 (iii) grounds for challenge;

1497 (iv) name of person challenging a voter;

1498 (v) ballot numbers, primary, November, special;

1499 (vi) date of birth;

1500 (vii) place of birth;

1501 (viii) place of current residence;

1502 (ix) street address;

1503 (x) zip code; [~~and~~]

1504 (xi) space for the voter to sign his name for each election[:]; and

1505 (xii) space for the election judge or election officer to mark that the voter voted by
1506 absentee ballot and where the absentee ballot was processed.

1507 (c) When preparing the official register and posting list for the Western States Presidential
1508 Primary, the county clerk shall include:

1509 (i) a column to record the name of the political party whose ballot the voter voted; and

1510 (ii) a column for the election judge to record changes in the voter's party affiliation.

1511 (2) (a) (i) For regular and municipal elections, primary elections, regular municipal
1512 elections, special district elections, and bond elections, the county clerk shall make an official
1513 register and posting list only for voting precincts affected by the primary, municipal, special
1514 district, or bond election.

1515 (ii) Each county clerk, with the assistance of the clerk of each affected special district, shall

provide a detailed map or an indication on the registration list or other means to enable an election judge to determine the voters entitled to vote at an election of special district officers.

(b) Municipalities shall pay the costs of making the official register and posting list for municipal elections.

Section 27. Section **20A-5-403** is amended to read:

20A-5-403. Polling places -- Booths -- Ballot boxes -- Provisions -- Arrangements.

(1) Each election officer shall:

(a) designate polling places for each voting precinct in the jurisdiction; and

(b) obtain the approval of the county or municipal legislative body or special district governing board for those polling places.

(2) (a) For each polling place, the election officer shall provide:

(i) an American flag;

(ii) a sufficient number of voting booths or compartments;

(iii) the voting devices, voting booths, ballots, ballot boxes, ballot labels, ballot cards, write-in ballots, and any other records and supplies necessary to enable a voter to vote; and

(iv) the constitutional amendment cards and voter information pamphlets required by Part 1.

(b) Each election officer shall ensure that:

(i) each voting booth is at least three feet square, contains a shelf that is at least one foot wide extending across one side of the booth at a convenient height for writing, and is arranged so that the voter can prepare his ballot screened from observation;

(ii) there is at least one voting booth for every 100 voters who voted at the last similar election in the voting precinct; and

(iii) there is at least one voting booth that is configured to accommodate persons with disabilities.

(c) Each county clerk shall provide a ballot box for each ~~[polling place]~~ precinct or combined precinct that is large enough to properly receive and hold the ballots to be cast.

(3) The municipality in which the election is held shall pay the cost of conducting each municipal election, including the cost of printing and supplies.

(4) The county clerk shall make detailed entries of all proceedings had under this chapter.

Section 28. Section **20A-5-403.1** is enacted to read:

20A-5-403.1. Hand auditing at counting centers or collection centers -- Forms, arrangements, provisions.

(1) For each election that is hand audited as required by Section 20A-4-104.1, the election officer shall provide:

(a) counting stations for each group of counting judges that have:

(i) tables that are approximately 36 inches by 84 inches in table surface area or similar;

(ii) no drapes or table cloths on or attached to the tables;

(iii) multiple tables provided to supply as many counting stations as needed for each counting group; and

(iv) chairs for each counting judge;

(b) counting supplies for each counting group to include:

(i) a ballot card reference key for each counting station that identifies the candidates and ballot propositions by the race category and the corresponding punch number on the ballot card, or, for any other type of hard copy ballot used, a similar type of reference key, if needed, for each precinct counted;

(ii) tally sheets for each counting station, for each precinct counted;

(iii) total votes cast forms for each precinct counted;

(iv) the means to make photocopies of the forms, printed returns, and final tally sheet; and

(v) any other necessary items to complete the counting.

(2) The election officer shall:

(a) allow counting judges to bring their own food and drinks to sustain them throughout the process; and

(b) allow them to take a break if the majority desires for refreshment or personally for necessity.

Section 29. Section **20A-5-404** is amended to read:

20A-5-404. Election forms -- Preparation and contents.

(1) (a) For each election, the election officer shall prepare, for each voting precinct, a:

(i) ballot disposition form;

(ii) total votes cast form;

(iii) tally sheet form; and

(iv) pollbook.

(b) For each election, the election officer shall:

- (i) provide a copy of each form to each of those precincts using paper ballots; and
- (ii) provide a copy of the ballot disposition form and a pollbook to each of those voting precincts using an automated voting system.

(2) The election officer shall ensure that the ballot disposition form contains a space for the judges to identify:

- (a) the number of ballots voted;
- (b) the number of substitute ballots voted, if any;
- (c) the number of ballots delivered to the voters;
- (d) the number of spoiled ballots;
- (e) the number of registered voters listed in the official register;
- (f) the total number of voters voting according to the pollbook; ~~and~~
- (g) the number of unused ballots[-];
- (h) the number of ballots delivered to the receiving judges by the elections officer;
- (i) the number of absentee ballots delivered to the judges by the elections officer;
- (j) the number of ballots voted;
- (k) the number of provisional ballots cast; and
- (l) a certification, in substantially the following form, to be signed and initialed by the judges when they have completed the ballot disposition form:

"BALLOT DISPOSITION

At an election held at _____ in _____ voting precinct in

_____ (name of entity holding the election, Utah on _____ (month, day,

year), the disposition of ballots is as follows:

Certified by us (signature and initials) _____, _____, Judges

of Election."

(3) The election officer shall ensure that the total votes cast form contains:

- (a) the name of each candidate appearing on the ballot, the office for which the candidate is running, and a blank space for the election judges to record the number of votes that the candidate received;
- (b) for each office, blank spaces for the election judges to record the names of write-in candidates, if any, and a blank space for the election judges to record the number of votes that the

1609 write-in candidate received;

1610 (c) a heading identifying each ballot proposition and blank spaces for the election judges
1611 to record the number of votes for and against each proposition; and

1612 (d) a certification, in substantially the following form, to be signed by the judges when
1613 they have completed the total votes cast form:

1614 "TOTAL VOTES CAST

1615 At an election held at ____ in ____ voting precinct in _____(name of entity
1616 holding the election) and State of Utah, on _____(month\day\year), the following named
1617 persons received the number of votes annexed to their respective names for the following
1618 described offices: Total number of votes cast were as follows:

1619 Certified by us ____, ____, ____, Judges of Election.

1620 Certified by us ____, ____, ____, ____, ____, ____, Judges at Hand Audit."

1621 (4) The election officer shall ensure that the tally sheet form contains:

1622 (a) for each office, the names of the candidates for that office, and blank spaces to tally the
1623 votes that each candidate receives;

1624 (b) for each office, blank spaces for the election judges to record the names of write-in
1625 candidates, if any, and a blank space for the election judges to tally the votes for each write-in
1626 candidate;

1627 (c) for each ballot proposition, a heading identifying the ballot proposition and the words
1628 "Yes" and "No" or "For" and "Against" on separate lines with blank spaces after each of them for
1629 the election judges to tally the ballot proposition votes; and

1630 (d) a certification, in substantially the following form, to be signed by the judges when
1631 they have completed the tally sheet form:

1632 "Tally Sheet

1633 We the undersigned election judges for voting precinct #_____,
1634 _____(entity holding the election) certify that this is a true and correct list of all
1635 persons voted for and ballot propositions voted on at the election held in that voting precinct on
1636 _____(date of election) and is a tally of the votes cast for each of those
1637 persons. Certified by us ____, ____, ____, Judges of Election."

1638 (5) The election officer shall ensure that the pollbook:

1639 (a) identifies the voting precinct number on its face; and

1640 (b) contains:

1641 (i) a section to record persons voting on election day, with columns entitled "Ballot
1642 Number" and "Voter's Name";

1643 (ii) another section in which to record absentee ballots;

1644 (iii) a section in which to record voters who are challenged; and

1645 (iv) a certification, in substantially the following form:

1646 "We, the undersigned, judges of an election held at _____ voting precinct, in _____
1647 County, state of Utah, on _____(month\day\year), having first been sworn according to law,
1648 certify that the information listed in this book is a true statement of the number and names of the
1649 persons voting in the voting precinct at the election, and that the total number of persons voting
1650 at the election was ____."

1651 _____
1652 _____
1653 _____
1654 Judges of Election

1655 Section 30. Section **20A-5-602.2** is enacted to read:

1656 **20A-5-602.2. Volunteer counting judges to random hand count the ballots and audit**
1657 **the election returns at the counting centers or collection centers.**

1658 (1) For any regular general or primary election, Western States Presidential Primary
1659 election, municipal or special service district election, special election, or bond election, the
1660 election officer shall:

1661 (a) allow any groups of registered voters within the election officer's jurisdiction to request
1662 to random hand audit no more than 10% of the total votes cast or not more than 10% of the total
1663 number of precincts or combined precincts within the election officer's jurisdiction; or

1664 (b) if 10% of the total number of precincts in the election officer's jurisdiction is less than
1665 four, allow the groups to audit up to four precincts total.

1666 (2) A registered voter from the group shall:

1667 (a) notify the elections officer of his intent to hand audit at least 30 days but not more than
1668 45 days before the election, or within ten days of the published notice of elections if the notice is
1669 published less than 30 days before the election; and

1670 (b) provide an affidavit to the elections officer that identifies:

1671 (i) the names of registered voters that will volunteer to serve as counting judges for that
1672 group;

1673 (ii) the names of two or more additional registered voters that will volunteer to serve as
1674 supervising counting judges to supervise the counting process for that group; and

1675 (iii) if possible, the names of up to five more registered voters that will volunteer to serve
1676 as alternates if needed.

1677 (3) Upon notification, the elections officer or his assignee shall give a photocopy of the
1678 affidavit back to the counting group stamped with the date and time and signed by the elections
1679 officer or his assignee.

1680 (4) The groups shall:

1681 (a) consist of citizens from different political parties, if possible;

1682 (b) have one supervising counting judge oversee up to three counting stations, with each
1683 counting station having one counting team of two counting judges;

1684 (c) consist of no less than four counting stations; and

1685 (d) consist of ten citizens or more.

1686 (5) (a) If multiple groups request to audit the election returns, they shall be accommodated
1687 on a first come, first served basis, but the number of groups allowed to audit shall be sufficient to
1688 count the percentage desired by the groups up to 10%; and

1689 (b) each groups' members shall be allowed to stay together and function separate of other
1690 groups.

1691 (6) (a) The elections officer shall provide mandatory training for the supervising counting
1692 judges at least 14 days before the election, or, if the judge has received training for this position
1693 in the past, the election officer may choose not to require previously trained persons to attend.

1694 (b) No later than Saturday before the election, the supervising counting judges shall train
1695 the other counting judges in their group, or, if a counting judge has received training for this
1696 position in the past, the election officer may choose not to require previously trained persons to
1697 attend.

1698 (c) The election officer shall provide sample training aids, including ballots, absentee
1699 ballots, write-in vote jackets, ballot reference keys, tally sheets, ballot disposition form, and total
1700 votes cast form.

1701 (7) The counting judges appointed under this section are volunteers and may not be paid.

Section 31. Section **20A-5-605** is amended to read:

20A-5-605. Duties of election judges on election day.

(1) (a) Receiving judges shall arrive at the polling place 30 minutes before the polls open and remain until the official election returns are prepared for delivery.

(b) Counting judges shall be at the polls as directed by the election officer and remain until the official election returns are prepared for delivery.

(2) Upon their arrival to open the polls, each set of election judges shall:

(a) designate which judge shall preside and which judges shall act as clerks;

(b) in voting precincts using paper ballots, ballot cards, or other hard copy ballots, select ~~[one]~~ two of their number, each from a different political party, to deliver the election returns to the election officer or to the place that the election officer designates;

(c) in voting precincts using ballot cards, select two of their number, each from a different party, to deliver the election returns to the election officer or to the place that the election officer designates;

(d) display the United States flag;

(e) open the voting devices and examine them to see that they are in proper working order;

(f) place the voting devices, voting booths, and the ballot box in plain view of election judges and watchers;

(g) open the ballot packages in the presence of all the judges;

(h) check the ballots, supplies, records, and forms;

(i) if directed to do so by the election officer, make any necessary corrections to the official ballots before they are distributed at the polls;

(j) post the sample ballots, instructions to voters, and constitutional amendments, if any;

(k) hang the posting list near the polling place entrance; and

(l) open the ballot box in the presence of those assembled, turn it upside down to empty it of anything, and then, immediately before polls open, lock it, or if locks and keys are not available, tape it securely.

(3) (a) If any election judge fails to appear on the morning of the election, or fails or refuses to act, at least six qualified electors from the voting precinct who are present at the polling place at the hour designated by law for the opening of the polls shall fill the vacancy by appointing another qualified person from the voting precinct who is a member of the same political party as

the judge who is being replaced to act as election judge.

(b) If a majority of the receiving election judges are present, they shall open the polls, even though the alternate judge has not arrived.

(4) (a) If it is impossible or inconvenient to hold an election at the polling place designated, the election judges, after having assembled at or as near as practicable to the designated place, and before receiving any vote, may move to the nearest convenient place for holding the election.

(b) If the judges move to a new polling place, they shall display a proclamation of the change and station a peace officer or some other proper person at the original polling place to notify voters of the location of the new polling place.

(5) If the election judge who received delivery of the ballots produces packages of substitute ballots accompanied by a written and sworn statement of the election officer that the ballots are substitute ballots because the original ballots were not received, were destroyed, or were stolen, the election judges shall use those substitute ballots as the official election ballots.

(6) If, for any reason, none of the official or substitute ballots are ready for distribution at a polling place or, if the supply of ballots is exhausted before the polls are closed, the election judges may use unofficial ballots, made as nearly as possible in the form of the official ballot, until substitutes prepared by the election officer are printed and delivered.

(7) When it is time to open the polls, one of the election judges shall announce that the polls are open as required by Section 20A-1-302.

(8) (a) The election judges shall comply with the voting procedures and requirements of Title 20A, Chapter 3, Voting in allowing people to vote.

(b) The election judges may not allow any person, other than election officials and those admitted to vote, within six feet of voting machines, voting booths, and the ballot box.

(c) Besides the election judges and watchers, the election judges may not allow more than four voters in excess of the number of voting booths provided within six feet of voting machines, voting booths, and the ballot box.

(d) If necessary, the election judges shall instruct each voter about how to operate the voting device before the voter enters the voting booth.

(e) (i) If the voter requests additional instructions after entering the voting booth, two election judges may, if necessary, enter the booth and give the voter additional instructions.

(ii) In regular general elections and regular primary elections, the two election judges who enter the voting booth to assist the voter shall be of different political parties.

Section 32. Section **20A-6-102** is amended to read:

20A-6-102. General requirements for machine-counted ballots.

(1) Each election officer shall ensure that ballot labels are printed:

(a) to a size and arrangement that fits the construction of the voting device; and

(b) in plain, clear type in black ink on clear white stock; or

(c) in plain, clear type in black ink on stock of different colors if it is necessary to:

(i) identify different ballots or parts of the ballot; or

(ii) differentiate between political parties.

(2) Each election officer shall ensure that:

(a) ballot cards are of a size, design, and stock suitable for processing by automatic data processing machines;

(b) each ballot card has an attached perforated stub, on which is printed the words "Official Ballot, ~~(initial) Judge~~ Two Judges' Initials _____, _____"; ~~[and]~~

(c) ballot stubs are numbered consecutively; and

(d) each ballot card has the words "Two Judges' Initials _____, _____ " printed on it, which shall remain on the ballot card.

(3) In elections in which voters are authorized to cast write-in votes, the election officer shall provide a separate write-in ballot, which may be in the form of a paper ballot, a card, or a secrecy envelope in which the voter places his ballot card after voting, to permit voters to write in the title of the office and the name of the person or persons for whom the voter wishes to cast a write-in vote.

(4) Notwithstanding any other provisions of this section, the election officer may authorize any ballots that are to be counted by means of electronic or electromechanical devices to be printed to a size, layout, texture, and in any type of ink or combination of inks that will be suitable for use in the counting devices in which they are intended to be placed.

Section 33. Section **20A-6-301** is amended to read:

20A-6-301. Paper ballots -- Regular general election.

(1) Each election officer shall ensure that:

(a) all ballots furnished for use at the regular general election contain no captions or other

1795 endorsements except as provided in this section;

1796 (b) (i) the ballot contains a ballot stub at least one inch wide, placed across the top of the

1797 ballot, and divided from the rest of ballot by a perforated line;

1798 (ii) the ballot number and the words "~~Judge's Initial~~ Two Judges' Initials

1799 _____" are printed on the stub; and

1800 (iii) ballot stubs are numbered consecutively;

1801 (c) immediately below the perforated ballot stub, the following endorsements are printed

1802 in 18-point bold type:

1803 (i) "Official Ballot for ____ County, Utah";

1804 (ii) the date of the election; and

1805 (iii) a facsimile of the signature of the county clerk and the words "county clerk";

1806 (d) each ticket is placed in a separate column on the ballot in the order determined by the

1807 election officer with the party emblem, followed by the party name, at the head of the column;

1808 (e) the party name or title is printed in capital letters not less than 1/4 of an inch high;

1809 (f) a circle 1/2 inch in diameter is printed immediately below the party name or title, and

1810 the top of the circle is placed not less than two inches below the perforated line;

1811 (g) unaffiliated candidates and candidates not affiliated with a registered political party are

1812 listed in one column, without a party circle, with the following instructions printed at the head of

1813 the column: "All candidates not affiliated with a political party are listed below. They are to be

1814 considered with all offices and candidates listed to the left. Only one vote is allowed for each

1815 office.";

1816 (h) the columns containing the lists of candidates, including the party name and device,

1817 are separated by heavy parallel lines;

1818 (i) the offices to be filled are plainly printed immediately above the names of the

1819 candidates for those offices;

1820 (j) the names of candidates are printed in capital letters, not less than 1/8 nor more than

1821 1/4 of an inch high in heavy-faced type not smaller than ten-point, between lines or rules 3/8 of

1822 an inch apart;

1823 (k) a square with sides measuring not less than 1/4 of an inch in length is printed at the

1824 right of the name of each candidate;

1825 (l) for the offices of president and vice president and governor and lieutenant governor,

1826 one square with sides measuring not less than 1/4 of an inch in length is printed opposite a double
1827 bracket enclosing the right side of the names of the two candidates;

1828 (m) immediately to the right of the unaffiliated ticket on the ballot, the ballot contains a
1829 write-in column long enough to contain as many written names of candidates as there are persons
1830 to be elected with:

1831 (i) the offices to be filled printed above the blank spaces on the ticket; and

1832 (ii) the words "Write-In Voting Column" printed at the head of the column without a 1/2
1833 inch circle;

1834 (n) when required, the ballot includes a nonpartisan ticket placed immediately to the right
1835 of the write-in ticket with the word "NONPARTISAN" in reverse type in an 18-point solid rule
1836 running vertically the full length of the nonpartisan ballot copy; ~~and~~

1837 (o) constitutional amendments or other questions submitted to the vote of the people, are
1838 printed on the ballot after the list of candidates; and

1839 (p) each ballot has the words "Two Judges' Initials _____, _____" printed on
1840 it, which shall remain on the paper ballot.

1841 (2) Each election officer shall ensure that:

1842 (a) each person nominated by any political party or group of petitioners is placed on the
1843 ballot:

1844 (i) under the party name and emblem, if any; or

1845 (ii) under the title of the party or group as designated by them in their certificates of
1846 nomination or petition, or, if none is designated, then under some suitable title;

1847 (b) the names of all unaffiliated candidates that qualify as required in Title 20A, Chapter
1848 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

1849 (c) the names of the candidates for president and vice president are used on the ballot
1850 instead of the names of the presidential electors; and

1851 (d) the ballots contain no other names.

1852 (3) When the ballot contains a nonpartisan section, the election officer shall ensure that:

1853 (a) the designation of the office to be filled in the election and the number of candidates
1854 to be elected are printed in type not smaller than eight-point;

1855 (b) the words designating the office are printed flush with the left-hand margin;

1856 (c) the words, "Vote for one" or "Vote for two or more" extend to the extreme right of the

1857 column;

1858 (d) the nonpartisan candidates are grouped according to the office for which they are
1859 candidates;

1860 (e) the names in each group are placed in alphabetical order with the surnames last, except
1861 for candidates for the State Board of Education and local school boards;

1862 (f) the names of candidates for the State Board of Education are placed on the ballot as
1863 certified by the lieutenant governor under Section 20A-14-105;

1864 (g) if candidates for membership on a local board of education were selected in a primary
1865 election, the name of the candidate who received the most votes in the primary election is listed
1866 first on the ballot;

1867 (h) if candidates for membership on a local board of education were not selected in the
1868 primary election, the names of the candidates are listed on the ballot in the order determined by
1869 a lottery conducted by the county clerk; and

1870 (i) each group is preceded by the designation of the office for which the candidates seek
1871 election, and the words, "Vote for one" or "Vote for two or more," according to the number to be
1872 elected.

1873 (4) Each election officer shall ensure that:

1874 (a) proposed amendments to the Utah Constitution are listed on the ballot under the
1875 heading "Constitutional Amendment Number ___" with the number of the constitutional
1876 amendment as assigned under Section 20A-7-103 placed in the blank;

1877 (b) propositions submitted to the voters by the Utah Legislature are listed on the ballot
1878 under the heading "State Proposition Number ___" with the number of the state proposition as
1879 assigned under Section 20A-7-103 placed in the blank;

1880 (c) propositions submitted to the voters by a county are listed on the ballot under the
1881 heading "County Proposition Number ___" with the number of the county proposition as assigned
1882 by the county legislative body placed in the blank;

1883 (d) propositions submitted to the voters by a school district are listed on the ballot under
1884 the heading "School District Proposition Number ___" with the number of the school district
1885 proposition as assigned by the county legislative body placed in the blank;

1886 (e) state initiatives that have qualified for the ballot are listed on the ballot under the
1887 heading "Citizen's State Initiative Number ___" with the number of the state initiative as assigned

1888 by Section 20A-7-209 placed in the blank;

1889 (f) county initiatives that have qualified for the ballot are listed on the ballot under the
1890 heading "Citizen's County Initiative Number ____" with the number of the county initiative as
1891 assigned under Section 20A-7-508 placed in the blank;

1892 (g) state referenda that have qualified for the ballot are listed on the ballot under the
1893 heading "Citizen's State Referendum Number ____" with the number of the state referendum as
1894 assigned under Sections 20A-7-209 and 20A-7-308 placed in the blank; and

1895 (h) county referenda that have qualified for the ballot are listed on the ballot under the
1896 heading "Citizen's County Referendum Number ____" with the number of the county referendum as
1897 assigned under Section 20A-7-608 placed in the blank.

1898 Section 34. Section **20A-6-401** is amended to read:

1899 **20A-6-401. Ballots for municipal primary elections.**

1900 (1) Each election officer shall ensure that:

1901 (a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across the
1902 top of the ballot;

1903 (ii) the ballot number and the words "~~Judge's Initial _____~~ Two Judges' Initials
1904 _____" are printed on the stub; and

1905 (iii) ballot stubs are numbered consecutively;

1906 (b) immediately below the perforated ballot stub, the following endorsements are printed
1907 in 18-point bold type:

1908 (i) "Official Primary Ballot for _____ (City or Town), Utah";

1909 (ii) the date of the election; and

1910 (iii) a facsimile of the signature of the election officer and the election officer's title in
1911 eight-point type; ~~and~~

1912 (c) immediately below the election officer's title, two one-point parallel horizontal rules
1913 separate endorsements from the rest of the ballot;

1914 (d) immediately below the horizontal rules, an "Instructions to Voters" section is printed
1915 in ten-point bold type that states: "To vote for a candidate, place a cross (X) in the square following
1916 the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by
1917 two one-point parallel rules;

1918 (e) after the rules, the designation of the office for which the candidates seek nomination

1919 is printed flush with the left-hand margin and the words: "Vote for one" or "Vote for two or more"
1920 are printed to extend to the extreme right of the column in ten-point bold type, followed by a
1921 hair-line rule;

1922 (f) after the hair-line rule, the names of the candidates are printed in heavy face type
1923 between lines or rules 3/8 inch apart, alphabetically according to surnames with surnames last and
1924 grouped according to the office that they seek;

1925 (g) a square with sides not less than 1/4 inch long is printed to the right of the names of
1926 the candidates; ~~[and]~~

1927 (h) the candidate groups are separated from each other by one light and one heavy line or
1928 rule; and

1929 (i) each ballot has the words "Two Judges' Initials _____, _____" printed on
1930 it, which shall remain on the ballot.

1931 (2) A municipal primary ballot may not contain any space for write-in votes.

1932 Section 35. Section **20A-6-401.1** is amended to read:

1933 **20A-6-401.1. Ballots for partisan municipal primary elections.**

1934 (1) If a municipality is using paper ballots, each election officer shall ensure that:

1935 (a) all paper ballots furnished for use at the regular primary election:

1936 (i) are perforated to separate the candidates of one political party from those of the other
1937 political parties so that the voter may separate the part of the ballot containing the names of the
1938 political party of the voter's choice from the rest of the ballot;

1939 (ii) have sides that are perforated so that the outside sections of the ballot, when detached,
1940 are similar in appearance to the inside sections of the ballot when detached; and

1941 (iii) contain no captions or other endorsements except as provided in this section;

1942 (b) the names of all candidates from each party are listed on the same ballot in one or more
1943 columns under their party name and emblem;

1944 (c) the political parties are printed on the ballot in the order determined by the county
1945 clerk;

1946 (d) (i) the ballot contains a ballot stub that is at least one inch wide, placed across the top
1947 of the ballot;

1948 (ii) the ballot number and the words [~~"Judge's Initials _____" are printed on the stub~~] "Two
1949 Judges' Initials _____, _____" are printed on the stub; and

1950 (iii) ballot stubs are numbered consecutively;

1951 (e) immediately below the perforated ballot stub, the following endorsements are printed

1952 in 18-point bold type:

1953 (i) "Official Primary Ballot for ____ County, Utah";

1954 (ii) the date of the election; and

1955 (iii) a facsimile of the signature of the county clerk and the words "county clerk";

1956 (f) after the facsimile signature, the political party emblem and the name of the political

1957 party are printed;

1958 (g) after the party name and emblem, the ballot contains the following printed in not

1959 smaller than ten-point bold face, double leaded type: "Instructions to Voters: To vote for a

1960 candidate, place a cross (X) in the square at the right of the name of the person for whom you wish

1961 to vote and in no other place. Do not vote for any candidate listed under more than one party or

1962 group designation.", followed by two one-point parallel horizontal rules;

1963 (h) after the rules, the designation of the office for which the candidates seek nomination

1964 is printed flush with the left-hand margin and the words: "Vote for one" or "Vote for two or more"

1965 are printed to extend to the extreme right of the column in ten-point bold type, followed by a

1966 hair-line rule;

1967 (i) after the hair-line rule, the names of the candidates are printed in heavy face type

1968 between lines or rules 3/8 inch apart, alphabetically according to surnames with surnames last and

1969 grouped according to the office that they seek;

1970 (j) a square with sides not less than 1/4 inch long is printed to the right of the names of the

1971 candidates;

1972 (k) the candidate groups are separated from each other by one light and one heavy line or

1973 rule; ~~and~~

1974 (l) the nonpartisan candidates are listed as follows:

1975 (i) immediately below the listing of the party candidates, the word "NONPARTISAN" is

1976 printed in reverse type in an 18-point solid rule that extends the full width of the type copy of the

1977 party listing above; and

1978 (ii) below "NONPARTISAN," the office, the number of candidates to vote for, the

1979 candidate's name, the voting square, and any other necessary information is printed in the same

1980 style and manner as for party candidates; and

1981 (m) each ballot has the words "Two Judges' Initials _____, _____" printed on
1982 it, which shall remain on the ballot.

1983 (2) (a) If a municipality is using machine counted ballots, the election officer may require
1984 that:

1985 (i) the ballot label for a regular primary election consist of several groups of pages, so that
1986 a separate group can be used to list the names of candidates seeking nomination of each qualified
1987 political party, with additional groups used to list candidates for other nonpartisan offices;

1988 (ii) the separate groups of pages are identified by color or other suitable means; and

1989 (iii) the ballot label contain instructions that direct the voter how to vote the ballot.

1990 (b) If a municipality is using machine counted ballots, each election officer shall:

1991 (i) ensure that the ballot label provides a square for the voter to designate the political party
1992 in whose primary the voter is voting; and

1993 (ii) determine the order for printing the names of the political parties on the ballot label.

1994 Section 36. Section **20A-6-402** is amended to read:

1995 **20A-6-402. Ballots for regular municipal elections.**

1996 (1) Each election officer shall ensure, for paper ballots at municipal general elections, that:

1997 (a) the names of the two candidates who received the highest number of votes for mayor
1998 in the municipal primary are placed upon the ballot;

1999 (b) if no municipal primary election was held, the names of the candidates who filed
2000 declarations of candidacy for municipal offices are placed upon the ballot;

2001 (c) for other offices:

2002 (i) twice the number of candidates as there are positions to be filled are certified as eligible
2003 for election in the municipal general election from those candidates who received the greater
2004 number of votes in the primary election; and

2005 (ii) the names of those candidates are placed upon the municipal general election ballot;

2006 (d) propositions submitted to the voters by the municipality are listed on the ballot under
2007 the heading "City (or Town) Proposition Number ____" with the number of the proposition as
2008 assigned by the municipal legislative body placed in the blank;

2009 (e) municipal initiatives that have qualified for the ballot are listed on the ballot under the
2010 heading "Citizen's City (or Town) Initiative Number ____" with the number of the municipal
2011 initiative as assigned by Section 20A-7-508 placed in the blank; and

(f) municipal referenda that have qualified for the ballot are listed on the ballot under the heading "Citizen's City (or Town) Referendum Number ____" with the number of the municipal referendum as assigned by Section 20A-7-608 placed in the blank.

(2) Each election officer shall ensure that:

(a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across the top of the ballot;

(ii) the ballot number and the words [~~"Judge's Initial ____"~~] "Two Judges' Initials ____" are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(b) immediately below the perforated ballot stub, the following endorsements are printed in 18-point bold type:

(i) "Official Ballot for ____ (City or Town), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title in eight-point type; [~~and~~]

(c) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;

(d) immediately below the horizontal rules, an "Instructions to Voters" section is printed in ten-point bold type that states: "To vote for a candidate, place a cross (X) in the square following the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;

(e) after the rules, the designation of the office for which the candidates seek election is printed flush with the left-hand margin and the words: "Vote for one" or "Vote for two or more" are printed to extend to the extreme right of the column in ten-point bold type, followed by a hair-line rule;

(f) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules 3/8 inch apart, alphabetically according to surnames with surnames last and grouped according to the office that they seek;

(g) a square with sides not less than 1/4 inch long is printed to the right of the names of the candidates;

(h) following the name of the last candidate for each office, the ballot contains a write-in

2043 space for each elective office; ~~and~~
2044 (i) the candidate groups are separated from each other by one light and one heavy line or
2045 rule; and
2046 (j) each ballot has the words "Two Judges' Initials _____, _____" printed on
2047 it, which shall remain on the ballot.
2048 (3) When a municipality has chosen to nominate candidates by convention or committee,
2049 the election officer shall ensure that the party name is included with the candidate's name on the
2050 ballot.

Legislative Review Note
as of 2-7-02 9:30 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel